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\$22 Million Richer, but Not Satisfied

A whistle-blower rewarded for exposing Monsanto violations is still seeking accountability.

WINNING isn't everything.

So says the man who recently received \$22 million after bringing to light multiyear accounting violations at Monsanto, the agribusiness and chemicals giant. Even though his is the second-largest award issued by the Securities and Exchange Commission under its five-year-old program to encourage whistle-blowers to come forward (after a \$30 million award in September 2014), it feels, he told me, like something of a hollow victory.

"The company got fined and some money changed hands, but that's not the answer," the whistle-blower said in a telephone inter-

view. "Management not being held accountable, that still bothers me. I went into this to get that fixed, and that didn't get fixed."

The \$22 million award generated a flurry of interest in the Monsanto case and in the S.E.C.'s program. But the whistle-blower, who remains anonymous because he is unsure about his future career path and does not want his involvement in the case to damage it, has not told his story publicly until now.

My discussions with him and with Stuart Meissner, the New York lawyer who represented him, provide a glimpse into the efforts that led to the large award. The conversations also point to the disappointments that even the most successful whistle-blowers can encounter.

People who try to flag wrongdoing in the workplace endure immense hardships and are often harmed in the process. In spite of safeguards, many are identified, driven

from their jobs and branded as troublemakers in their industries. This makes it difficult for them to find new jobs.

Happily, none of this happened to the truth teller in the Monsanto matter, who held a financial job at the company. Still, the process was anything but easy, he said, causing friction with co-workers.

"Nobody else feels what you feel internally, so you have a hard time understanding why people don't see it as you do," he said. "That's the only way you can go through this: It's got to be something from deep within that drives you."

A Monsanto spokeswoman said it would be inappropriate to comment on the award.

Although the S.E.C.'s action against Monsanto emerged in February, the investigation that led to it began in 2011, shortly after the agency created its whistle-blower office as mandated by the Dodd-Frank legislation.

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A former employee of Monsanto who spoke out says he is frustrated by some S.E.C. decisions.

\$22 Million Richer, but Still Not Satisfied

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The S.E.C. concluded that the company had improperly accounted for millions of dollars of incentive rebates offered to distributors of its Roundup herbicide. In its settlement with Monsanto, the S.E.C. said the problematic accounting began in 2009 and continued through 2011.

The trouble started, the S.E.C. said, when the economy was in a tailspin and Monsanto's customers were flocking to less expensive generic versions of Roundup. Recognizing that sales of the product were coming in well below what the company had forecast to investors, Monsanto decided to change its accounting policies on customer rebates, the whistle-blower said. Monsanto essentially shifted the costs of the rebates into fiscal 2010 while keeping the sales associated with the rebates in 2009.

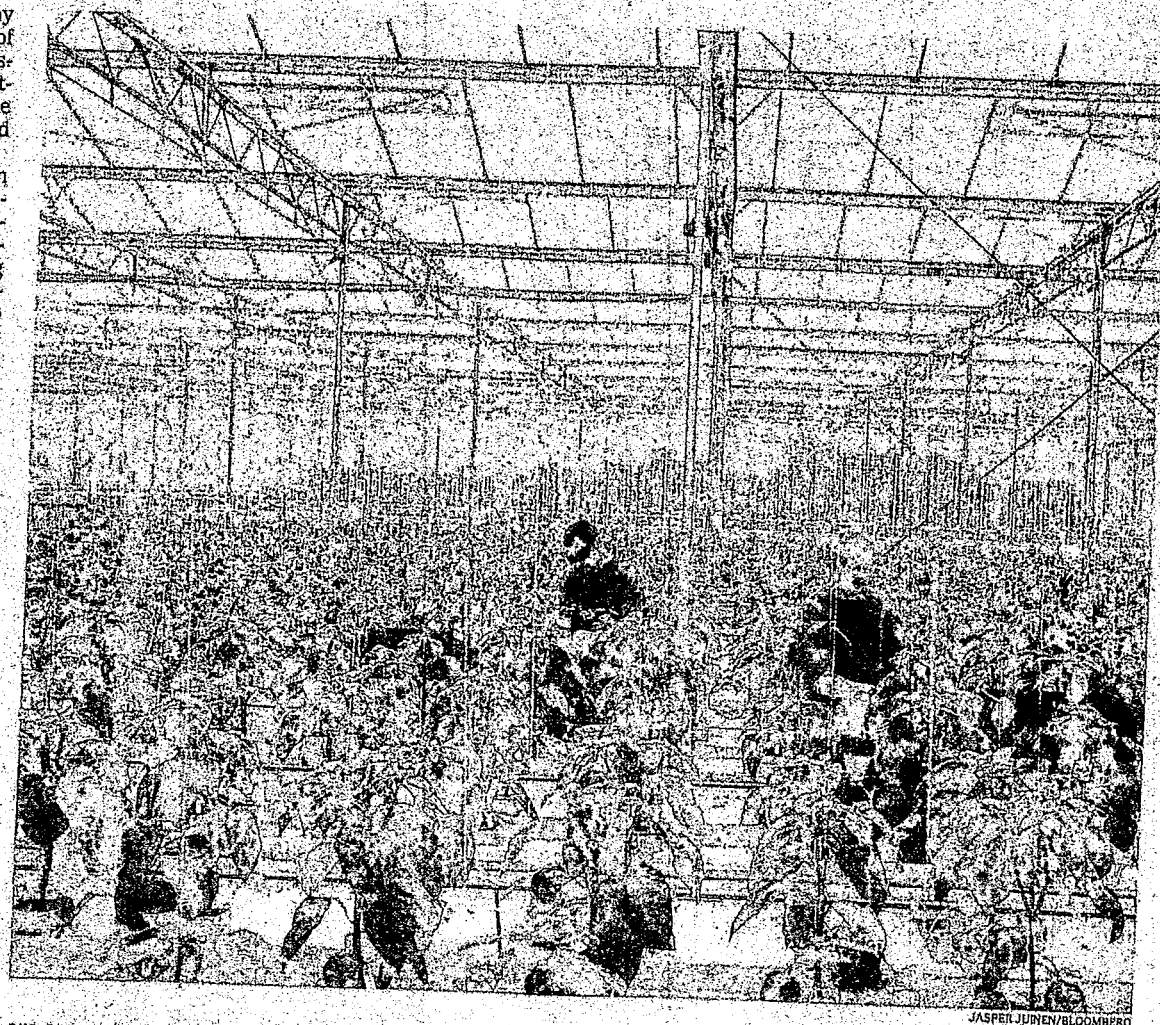
Although the S.E.C. did not accuse the Monsanto employees of intending to violate the law, it said in its settlement order that "as a result of the improper accounting, Monsanto met consensus earnings-per-share analyst estimates for fiscal year 2009." Meeting such estimates is crucial: When companies report results that are below expectations, their stocks often plummet.

In 2010, the company again shifted some rebate costs into the next year. The actions inflated Monsanto's reported profit by \$31 million over the two years, according to regulatory filings.

In late 2011, after the S.E.C.'s investigation began, Monsanto said it would restate its earnings to reflect the proper timing of revenue and costs related to the rebates. Although the impact amounted to only a few pennies a share during the period, in its February settlement with the S.E.C., Monsanto paid \$80 million in penalties. The company neither admitted nor denied the accusations but agreed to hire a qualified independent ethics and compliance consultant.

In the enforcement action, the S.E.C. named three midlevel employees involved in the improper activities. They paid a total of \$135,000 in penalties. One had retired from Monsanto, the S.E.C. said, but the other two still work at the company. Both

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are accountants and were barred from appearing before the S.E.C. as accountants for one to two years.

It was frustrating, the whistle-blower said, that the S.E.C. took no action against others at Monsanto who, he said, knew about the improprieties.

"It's really difficult when your company is doing something you know is wrong but you've got everybody around you saying

it's perfectly fine," the former employee recalled. "The Monsanto culture is very tightknit. Everybody has stock options and everyone is financially at risk. So they go with the flow."

In agreeing to the settlement, Monsanto said it was committed to "operating its business with the utmost integrity and transparency and in compliance with all applicable laws and regulations."

Workers tending to paprika plants at a greenhouse in the Netherlands owned by Monsanto's vegetable seeds division. Monsanto paid \$80 million in penalties in a settlement over accounting violations brought to light by a whistle-blower.

Monsanto also said that Hugh Grant, the company's chairman and chief executive, and Carl M. Casale, its chief financial officer at the time, would forfeit some of their pay for the years covered by the restatement. "The S.E.C. did not pursue any enforcement actions against Messrs. Grant and Casale, nor did the S.E.C. allege that these executives engaged in misconduct," the company said.

The S.E.C. also declined to act against Deloitte, Monsanto's auditor. This puzzles Mr. Meissner, the whistle-blower's lawyer, knowing what he does about the facts of the matter.

"Bringing cases against auditors would put a stop to a good deal of accounting fraud," Mr. Meissner told me. In accounting cases like this one, "there should also be an action against the outside auditor or an explanation of why there isn't one," he added.

Deloitte declined to comment.

As is its custom, the S.E.C. would not say why it had not pursued an enforcement case against Deloitte.

But the agency has increased the number of cases it has brought against auditors in recent years. In fiscal 2015, the S.E.C. brought 76 cases against individuals and companies. In 2013, it brought 37.

The S.E.C. employees who worked with the whistle-blower on the Monsanto matter made his job easier, he said, and were very familiar with the accounting issues. They were also advocates within the agency for the former employee, his lawyer said.

Still, it was the whistle-blower who took the risks, Mr. Meissner said. "Here you have someone who tries to do the right things internally, gets stymied and does what you're supposed to do — reach out to the authorities," he said. "He flew to Washington many times to assist them on his own expense without any guarantee of anything."

What is the whistle-blower doing now, with the case over and the bounty in hand?

"He left Monsanto during the course of the investigation and went to work for another company in a similar position," Mr. Meissner said. "He is very happy there."

He said he plans to continue working.