

CORPORATE COUNSEL American Lawyer

August 31, 2016

<http://www.corpcounsel.com/id=1202766330360/Former-Monsanto-Executive-Receives-SecondLargest-SEC-Whistleblower-Award?slreturn=20160731071058>

Former Monsanto Executive Receives Second-Largest SEC Whistleblower Award

Latest award pushes SEC's total to more than \$100M doled out.

C. Ryan Barber, Corporate Counsel



Photo: Diego M. Radzinski/NLJ

A former Monsanto Co. executive [received a \\$22.5 million whistleblower award](#) Tuesday for alerting U.S. securities regulators to improper accounting that inflated the agricultural company's reported sales of Roundup, according to the lawyer who represented the tipster.

The award was the second largest in the five-year history of the Securities and Exchange Commission's whistleblower program, which was created under the Dodd-Frank financial reform law to reward tipsters with between 10 and 30 percent of penalties that exceed \$1 million. At \$22.5 million, the latest award came just shy of the maximum amount that the whistleblower could have received for providing information that contributed to the SEC's [\\$80 million settlement](#) with Monsanto in February. The [largest SEC bounty](#), totaling \$30 million, was awarded in 2014.

Stuart Meissner, a former New York assistant attorney general who helped draft the original SEC whistleblower rules, represented the tipster and confirmed the award was connected to the Monsanto settlement.

Meissner said his client discovered Monsanto's lax internal controls failed to account for tens of millions of dollars in rebates that were provided to retailers and distributors as incentives to drive sales of Roundup, the company's flagship herbicide. Meissner noted the whistleblower, whom he did not identify, had initially tried to correct the accounting issue internally.

"Although it took several years to consummate, the large award made to our client hopefully will encourage other public company insiders who are aware of financial manipulations—or any other securities laws violations—to come forward to help protect investors," Meissner said in a statement. "Internal gatekeepers like our client represent the first line of defense against financial wrongdoing at companies—in this case unlawful gamesmanship between Monsanto and its outside auditor to disguise significant sales weakness of a signature product like Roundup."

Monsanto agreed in the deal to improve its accounting and retain an independent compliance monitor. Meissner urged the SEC to go further and investigate Deloitte, the outside auditor for Monsanto in the three years the company overstated its earnings from Roundup.

"When auditors are allowed to audit their own mistakes, it is difficult for them to be independent and objective," Meissner said.

A representative from Deloitte was not immediately reached for comment Tuesday.

The SEC declined to name the tipster on Tuesday or connect the award to any action by the agency. The agency trumpeted the bounty for pushing the total amount of whistleblower awards over the \$100 million mark.

"The SEC whistleblower program has had a transformative impact on the agency, enabling us to bring high quality enforcement cases quicker using fewer resources," Andrew Ceresney, director of the SEC's enforcement division, [said in a statement](#). "The ultimate goal of our whistleblower program is to deter securities violations and paying more than \$100 million in whistleblower awards demonstrates the value that whistleblowers have added to our enforcement program."