

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 4 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DAVID GIVENS,

Petitioner,

v.

UNITED STATES OF AMERICA; U.S.  
SECURITIES & EXCHANGE  
COMMISSION,

Respondents.

No. 16-72207

SEC File No. 2016-12

MEMORANDUM\*

On Petition for Review of an Order of the  
Securities & Exchange Commission

Submitted September 26, 2017\*\*

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

David Givens petitions pro se for review of an order of the Securities and Exchange Commission (“SEC”) denying his claim for a whistleblower award under Section 21F of the Dodd–Frank Wall Street Reform and Consumer Protection Act. We have jurisdiction under 15 U.S.C. § 78u–6(f). The SEC’s

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

determination may be set aside only if “arbitrary, capricious, or otherwise not in accordance with law,” or “unsupported by substantial evidence.” 5 U.S.C.

§ 706(2)(A), (2)(E); *see also* 15 U.S.C. § 78u–6(f); *Ponce v. SEC*, 345 F.3d 722, 728 (9th Cir. 2003). We deny the petition.

The record supports the SEC’s determination that Givens was not entitled to a whistleblower award because Givens did not provide information to the SEC “that led to the successful enforcement” of an SEC action. 15 U.S.C. § 78u–6(b); *see also* 17 C.F.R. § 240.21F–4(c) (defining information that leads to successful enforcement).

We reject as meritless Givens’s contention that the SEC denied him due process of law.

All pending motions and requests are denied.

**PETITION FOR REVIEW DENIED.**