

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

<p>CVS PHARMACY, INC.</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">v.</p> <p>TIMOTHY M. BROWN</p> <p style="padding-left: 40px;">Defendant.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CIVIL ACTION NO.</p> <p>FEBRUARY 9, 2021</p>
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VERIFIED COMPLAINT

Plaintiff CVS Pharmacy, Inc. (“CVS”), through its counsel, for its complaint against Defendant Timothy M. Brown (“Brown”), alleges as follows:

INTRODUCTION

This is an action to prevent a highly compensated former regional Chief Medicare Officer of Aetna Inc. (“Aetna”) from inevitably using Aetna’s trade secrets and from breaching his post-employment non-compete and non-disclosure obligations to Aetna. After participating in Aetna’s annual process of developing its strategy for the 2022 Medicare Advantage plan year, Brown seeks to join Aetna’s direct competitor, Cigna, in a role where he will be directly responsible for growth of Cigna’s share of the national Medicare Advantage market and expansion of Cigna’s national footprint.

In his position with Aetna, Brown was responsible for implementing Aetna’s multi-faceted Medicare Advantage strategy within his region. In his role as Chief Medicare Officer, he participated in weekly and monthly meetings and received regular briefings on Aetna’s national Medicare Advantage program strengths and weaknesses, target markets, provider

engagement, and product offerings. All of this information is highly confidential and would be invaluable to Cigna. Utilizing Brown's inside knowledge of Aetna's vulnerabilities and growth plans, Cigna can deploy its resources to unfairly capture market share directly from Aetna.

In consideration for a valuable equity grant, Brown agreed to enter into a restrictive covenant agreement designed to protect Aetna's confidential information and goodwill in the market. Flouting his legal obligations under the agreement, however, Brown has joined Cigna just as Cigna will begin developing its plans for expanding its Medicare Advantage market share during the 2022 plan year. Aetna has attempted to reach an accommodation with Brown and Cigna that would permit him to be employed by Cigna in a role which would protect Aetna's legitimate business interests. However, Brown has insisted on accepting a role at Cigna in which he will be directly involved in Cigna's national expansion of its Medicare Advantage program. Brown's brazen disregard for his post-employment contractual obligations and his duties to protect Aetna's confidential information, including trade secrets, have left Aetna with no alternative but to seek immediate injunctive relief from this Court.

THE PARTIES

1. CVS is a Rhode Island corporation with its principal place of business in Woonsocket, Rhode Island.
2. Brown is an individual residing at 2349 Harbor Ave. SW, No. 502, Seattle, Washington, 98126.
3. In November 2018, CVS Health Corporation acquired Aetna Inc. At that time, Aetna became a wholly-owned subsidiary of CVS, which is a subsidiary of CVS Health Corporation. At all times relevant to this Complaint, Brown was employed by Aetna Resources LLC, a subsidiary of CVS and of Aetna Inc. CVS's Medicare Advantage programs

operate through Aetna. All references to Aetna in this Complaint include its parent company, CVS.

4. Brown worked for Aetna from 2017 until his resignation on January 22, 2021. He most recently served as its Chief Medicare Officer for the Northwest and Mountain region.

5. Brown was a sophisticated and highly compensated executive at Aetna, earning an annual salary in excess of \$200,000, as well as the opportunity for a substantial annual bonus and equity grants.

JURISDICTION AND VENUE

6. Subject matter jurisdiction exists in this Court pursuant to 28 U.S.C. §1332 based on complete diversity of citizenship between the parties and because the value of the rights of CVS implicated by the conduct alleged herein and the actual and potential loss to CVS as a result of the Brown's unlawful conduct exceeds \$75,000.

7. Subject matter jurisdiction also is conferred upon this Court pursuant to 18 U.S.C. § 1836(c), 28 U.S.C. §§ 1331 and 1367 and the doctrine of supplemental jurisdiction.

8. This Court has personal jurisdiction over Brown because this action arises out of Brown's specific contacts with the state of Rhode Island. Brown was employed by Aetna Resources LLC, which is a wholly owned by CVS. CVS has its principal place of business in Rhode Island. In addition, Brown attended training sessions and leadership meetings in Rhode Island in the course of his employment. In 2019, Brown was awarded and accepted a substantial equity grant from CVS Health Corporation, which is based in Rhode Island.

9. On April 3, 2019, in consideration for the receipt of a restricted stock unit award, Brown entered into a Restrictive Covenant Agreement (the "Agreement") with CVS. A true and accurate copy of the Agreement is attached hereto as **Exhibit A**.

10. Brown expressly consented to the jurisdiction of this Court in Paragraph 19 of the Agreement, which provides “[Brown] agree[s] that any claim or dispute [he] may have against the Corporation must be resolved by a court located in the state of Rhode Island.” This action arises out of Brown’s breach of the Agreement.

11. Venue properly lies in this Court pursuant to 28 U.S.C. §1391 because this Court has personal jurisdiction over Brown. In addition, Brown agreed that the Agreement shall be governed and construed in accordance with the laws of the state of Rhode Island.

GENERAL ALLEGATIONS

12. CVS is a health care company that provides health plans and related services, including Medicare Advantage plans, prescription drug plans, prescription benefit management services, specialty pharmacy and infusion services, long-term care pharmacy services, retail health clinic services, retail pharmacy services, and a wide variety of related health care services and products. CVS has approximately 300,000 employees and operates in every state in the United States.

13. Aetna offers a variety of Medicare Advantage plans to individuals who are eligible for Medicare; these plans offer coordinated medical, hospital and prescription drug coverage.

14. Cigna is a global health service company that offers integrated health services through its affiliates including medical, dental, behavioral health, pharmacy, vision, supplemental benefits, and other related products. Cigna offers a wide range of Medicare Advantage plans which vary by region, cost, and coverage.

15. Cigna and Aetna are direct competitors in the national Medicare Advantage marketplace.

Medicare Advantage

16. Medicare Advantage plans are health insurance plans for Medicare beneficiaries (including Americans age 65 and older as well as those with qualifying disabilities) that are sold by private insurers such as Aetna and Cigna. In addition to covering all standard Medicare services, Medicare Advantage plans offer prescription drug, dental, vision, hearing and other forms of coverage not available in a basic Medicare plan.

17. The United States Centers for Medicare and Medicaid Services (“CMS”) work with insurance companies like Aetna and Cigna to improve the quality, performance, and cost-effectiveness of services provided to Medicare beneficiaries through Medicare Advantage plans.

18. Health insurance companies can bid on the right to offer Medicare Advantage plans in counties and states across the United States. If a plan succeeds in its bid to offer a Medicare Advantage plan, the health plan enters into a contract with the U.S. government, through CMS, to cover the same services that Medicare covers as well as supplemental services. The government reimburses these insurance companies for covering Medicare beneficiaries.

19. Reimbursement rates paid to insurers like Aetna and Cigna by the government for Medicare contracts are based on a number of factors. Medicare pays Medicare Advantage plans a capitated (per enrollee) amount to provide all Part A and B benefits. In addition, Medicare makes a separate payment to plans for providing prescription drug benefits under Medicare Part D. Payments to plans are adjusted for enrollees’ health status and other factors. Further, CMS offers additional reimbursement (“bonus” payments) to Medicare Advantage plans as a reward for achieving high quality ratings (“STAR Ratings”). This additional

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