

**FINAL ORDER-THIS PRELIMINARY DETERMINATION BECAME THE FINAL
ORDER OF THE COMMISSION ON SEPTEMBER 11, 2017 PURSUANT TO RULE
21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934**

Notice of Covered Action 2012-72

SEC v. Phillip W. Offill, Jr., et al., Civil Action No. 3:07-cv-01643 (N.D. Tex.)

PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Covered Action, the Securities and Exchange Commission (the “Commission”) received one timely whistleblower award claim from ^{Redacted} (“Claimant”). Pursuant to Section 21F of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated the claim in accordance with the criteria set forth in Rules 21F-1 through 21F-17.

The Claims Review Staff has preliminarily determined to recommend that the Commission deny an award to Claimant. The basis for this determination is as follows:

First, to the extent that the Claimant’s award application is based on information provided to the Commission on or before July 21, 2010, that information does not constitute “original information,” as that term is defined under Rule 21F-4(b)(1) of the Exchange Act and, thus, may not serve as the basis for an award.¹

Second, Claimant did not provide information that led to the successful enforcement by the Commission of a federal court or administrative action with respect to the above referenced Covered Action, as required by Rules 21F-3(a)(3) and 21F-4(c) of the Exchange Act because Claimant did not:

- a. cause 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
- b. significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c) (2) of the Exchange Act.²

By: Claims Review Staff

Date: July 11, 2017

¹ Only new information provided to the Commission for the first time after the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act may qualify as “original information.” See *Stryker v. SEC*, 780 F.3d 163 (2d Cir. 2015).

² We note that, to the extent that Claimant’s email dated ^{Redacted}, contained an internet link to a news article (including information taken from that news article), we preliminarily find that this information was not derived from Claimant’s “independent knowledge” because it was publicly available information. See Exchange Act Rule 21F-4(b)(2). Such information does not qualify as “original information” so as to support an award. See Exchange Act Rule 21F-4(b)(1).