

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	Middle [REDACTED]
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Business Economic Loss		
Law Firm	[REDACTED]		

II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

<input type="checkbox"/> BP's Final Proposal	Compensation Amount	\$7,063
	Risk Transfer Premium	2.00
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$33,000
	Risk Transfer Premium	2.00
	Prior Payment Offset	\$0

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

Comment (optional):

Claimant is a Japanese restaurant located in [REDACTED] Florida. BP appeals based on its conclusion that the Administrator failed to properly analyze the payroll/officer compensation expenses. BP asserts that specific mismatches of revenue/expenses be addressed "before" applying the Policy 495 indicia. This demand is not the requirement of the policy or the court decisions leading to it. Policy 495 requires the Administrator to



"sufficiently" match revenues to expenses and that unmatched claims will be adjusted to reach "realistic" measurements of the economic loss. A review of the accountant notes and correspondence from the Claimant reveals the Administrator performed its analysis according to the policy requirements. Additionally, the Claimant reduced its claim to accommodate some of BP's accounting issues. The process worked in this claim and the Claimant's final proposal is affirmed.

DWH: [REDACTED]

Claim ID: [REDACTED]

In this appeal of a Business Economic Loss award to a [REDACTED], Mississippi based general practice law firm, BP assigns error to the Claims Administrator in (1) failing to resolve discrepancies between Claimant's Profit & Loss Statements and Claimant's federal income tax returns; (2) failing to assign apparent year end employee bonuses and retirement contributions to the months in which the bonuses were earned; (3) failing to properly assign revenue to the months in which it was earned; and (4) failing to subtract variable expenses incurred in generating corresponding revenue. In one footnote, it acknowledges that the issues raised in error assignments (3) and (4) are governed by prior orders of the court and are appealed only for purposes of preserving further appellate rights. Those two issues are meritless. In another footnote, BP states that "to the extent" that issue (2) is governed by those prior orders, it likewise is appealed solely for the purpose of preserving its future rights of appeal. Inasmuch as a review of the substance of that claim demonstrates that it raises the "smoothing" or matching of revenue and expense issue, that one is also foreclosed by prior court rulings.

In support of assignment (1), BP points to a discrepancy between gross revenue reported by Claimant for the year 2010 on its Profit and Loss Statement and its federal income tax return for that year. Reference to the tax return in question reveals a report of gross sales totaling \$1,075,448 while the P&L records \$1,067,540.01, a difference of \$7,907.99, a variance of 0.74%. No other example of so-called "discrepancies" in the Claimant's records are cited by BP. In response, after pointing out that BP offers no support for its argument that this variance constitutes a "material discrepancy", Claimant effectively demonstrates that this documentation was submitted to and was reviewed by the Claims Administrator's auditors in arriving at the award it received.

After careful review and examination of the underlying documents, this Panelist concludes that Claimant's position is well taken and that the Claims Administrator committed no error in this regard. Moreover, given the fact that this appeal is governed by the Baseball Process outlined in Appellate Rule 17, this insignificant discrepancy cannot justify either BP's zero dollar final proposal or a remand to the Claims Administrator. Consequently, this appeal must be rejected and decision must be entered herein in favor of Claimant's Final Proposal.

It is so ordered.