



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

Denial Upheld

Denial Overturned

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.

Claim should have been excluded.

Claim should have been denied.

Claim should not have been excluded.

Claim should not have been denied.

No error.

Comment (optional):

Claimant, the owner of [REDACTED] [REDACTED] [REDACTED] in [REDACTED] [REDACTED] Florida, appeals its denial of a BEL claim. The Administrator determined that Claimant could not meet the causation requirements of Ex. 4B of the Agreement, and specifically Sec. III.C.2 thereof, which requires, under the Decline-Only revenue pattern, that Claimant provide factors beyond its control that prevented its recovery of revenues in 2011. While this matter was being processed, the Administrator issued Policy 474, which requires that to meet the Decline Only test, a Claimant must submit third party proof of factors beyond its control to recover 2011 revenues. This policy is well-reasoned and logical, and does allow that factors listed therein are only illustrative and not exhaustive. This record contains a sworn written statement by [REDACTED] [REDACTED] employed by [REDACTED] (a separate entity from Claimant and contracted by Claimant as third party property manager of the subject Mall). Therein, [REDACTED] identifies and attaches several revised Mall tenant leases that were changed to the benefit of the respective tenants as a response to tenant rent reduction requests in an effort to keep the tenants from going out of business. Though Claimant executed these agreements, and thus arguably controlled its subsequent loss of revenue, this was a matter of losing the rent battle but winning the rent war in at least retaining solvent tenants, albeit at reduced rent. [REDACTED] also identified and attached to his sworn statement certain Daily Activity and Safety reports executed by third party security personnel verifying that a power outage occurred at the Mall for



several hours during Sept. 3, 2011, one of the busiest shopping weekends of the year. This panelist believes that the evidence submitted more than qualifies as third-party documentation envisioned by Policy 474, and thus finds that the factors beyond its control requirement has been satisfied by this Claimant, requiring the overturning of this denial.