



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First	Middle
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)*:

This matter is REMANDED for reasons submitted to the Appeals Coordinator.

Reasons for Remand

Appeal # [REDACTED]

November 5, 2014

Claimant filed a BEL claim. The Claimant failed the V-Shaped Revenue Pattern Test and the Modified V-Shaped Revenue Pattern Test.

As to the Decline-Only Revenue Pattern Test, the Settlement Program found that the Claimant met the “Revenue” prong of the test, but found that the Claimant failed the “Additional Analysis” prong. This prong, as interpreted by the Claims Administrator in Policy 474, requires a Claimant to submit “objective, third party documentation that identifies factors outside the control of the claimant that prevented recovery of revenues in 2011.” The Claimant submitted seemingly compelling evidence that it had lost a number of customers which prevented a recovery of revenues in 2011. However, documents prepared by the Claimant, or accountant, or attorney don’t qualify as “objective” and may only be used to corroborate the objective documentation. The Settlement Program concluded that Claimant had not provided the required objective documentation and thus denied the Claim.

It is not clear to this Appeal Panelist whether or not Claimant was provided a final opportunity to submit objective documentation. [It should be noted that Policy 474 states that the “Settlement Program will *not* issue an Incompleteness Notice for specific documentation identifying factors outside the control of the claimant that prevented the recovery of revenues in 2011.”]

In light of the totality of circumstances, this Appeal Panelist is remanding this matter in order to give the Claimant one last opportunity to submit whatever objective documentation it can to satisfy the Settlement Program. If Claimant has any uncertainty as to what types of documents are needed to satisfy this requirement, this Appeal Panelist suggests that Claimant dialogue with the Settlement Program to insure that there is no misunderstanding regarding this requirement.