



APPEAL PANEL DECISION FORM

2014-752

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

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 | \$21,992 |
| | Risk Transfer Premium | 1.50 |
| | Prior Payment Offset | \$0 |
| <input checked="" type="checkbox"/> Claimant's Final Proposal | Compensation Amount | \$32,522.17 |
| | Risk Transfer Premium | 1.50 |
| | 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):

See attached opinion uploaded in the portal.

DWH: [REDACTED]

Claim ID: [REDACTED]

Written Reasons and Opinion:

This is a BP appeal of a Business Economic Loss award to a real estate agent located in Longboat Key, Florida. BP contends that after concluding that the financial information contained in Claimant's profit and loss statements was not sufficiently matched, the Claims Administrator misapplied CAO Policy 495 by failing first to correct a misattribution of revenue and then, second, by failing to apply an industry-appropriate methodology to correct the matching problem.

Examination of the record reveals that the Claims Administrator concluded, utilizing the criteria contained in Section I of Policy 495 that the financial data was not sufficiently matched and proceeded to analyze the claim using the Annual Variable Margin Methodology set forth in Attachment B of said policy. BP contends that methodology fails to solve the problem because it only redistributes expenses and not revenues. It says that the Professional Services Methodology is the only proper one to apply in this case.

Claimant counters with the assertion that the policy was properly applied. The claims analyst's first task is to review the P&L statements for any obvious errors; if any are found, they are corrected and are then subjected to the seven criteria for the purpose of determining whether or not the revenues and expenses are sufficiently matched. If not, the analyst then determines, based upon Claimant's business industry type, which methodology ought be utilized to achieve sufficient matching. Here the AVM Methodology was selected.

Policy 495 Attachment A assigns NAICS Codes to each of the special matching categories enumerated therein, including that of Professional Services. No NAICS Codes for real estate agents or brokers are found on Attachment A. Consequently, the analyst appropriately applied the AVM Methodology which is found in Attachment B. The introductory paragraphs of Policy 495 record the history of the parties' intensive negotiations and considerations which brought it into being. It seeks to achieve sufficient matching, not exact matching, of revenues to expenses. That policy was approved, in its entirety, by the court.

After de novo review, this panelist is satisfied that the Claims Administrator committed no error. This BP appeal cannot be sustained and decision must be entered herein in favor of Claimant's Final Proposal.

Decision: November 12, 2014