



**APPEAL PANEL DECISION FORM**

2014-757

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First [REDACTED]	Middle
<b>Claimant ID</b>	[REDACTED]	<b>Claim ID</b>	[REDACTED]
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	[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"/> <b>BP's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$19,822</b>
	<b>Risk Transfer Premium</b>	<b>.25</b>
	<b>Prior Payment Offset</b>	<b>\$0</b>
<input checked="" type="checkbox"/> <b>Claimant's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$32,637.63</b>
	<b>Risk Transfer Premium</b>	<b>.25</b>
	<b>Prior Payment Offset</b>	<b>\$0</b>

**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:

BP appeals this Business Economic Loss award to a Fort Myers, Florida, real estate agent, contending that the Claims Administrator misapplied Policy 495 in his analysis of Claimant's financial records. More specifically, BP submits that, after determining Claimant's profit and loss statements were insufficiently matched, the Claims Administrator erred first by failing to correct misattribution of revenues and then, second, by failing to utilize an industry-appropriate methodology to correct the matching problem.

Examination of the record discloses that, employing the criteria contained in Section 1 of Policy 495, the Claims Administrator determined 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 to said policy. BP asserts that methodology fails to solve the problem because it only redistributes expenses and not revenues. It contends that the Professional Services Methodology is the only proper one to apply in this case.

Claimant counters with the assertion that it is BP who is misinterpreting the policy and that the policy was, in fact, appropriately applied. Claimant is correct. 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 then subjected to the seven criteria contained in Policy 495 in order to determine whether or not the recorded revenues and expenses are sufficiently matched. If not, the analyst then determines, based upon Claimant's business industry type, which methodology should be utilized for the purpose of achieving sufficient matching. Here, he selected the AVM Methodology.

Policy 495 Attachment A lists the business industry codes which are assigned to each of the special matching categories enumerated therein, including that of Professional Services. No such codes for real estate agents or brokers are found on that attachment. For that reason, the analyst 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 the considerations which brought it into being. It plainly seeks to achieve sufficient matching, not exact matching, of revenues to expenses. This policy was submitted to the court for review and was subsequently approved in its entirety.

This panelist has concluded, after de novo review, that the Claims Administrator committed no error in analyzing this claim. Accordingly, this BP appeal cannot be sustained and decision must be entered herein in favor of Claimant's Final Proposal.

Decision: November 12, 2014