



**APPEAL PANEL DECISION FORM**

2014-789

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First	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>\$15,514</b>
	<b>Risk Transfer Premium</b>	<b>2.00</b>
	<b>Prior Payment Offset</b>	<b>\$44,800</b>
<input checked="" type="checkbox"/> <b>Claimant's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$28,856.17</b>
	<b>Risk Transfer Premium</b>	<b>2.00</b>
	<b>Prior Payment Offset</b>	<b>\$44,800</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):**

BP appeals the award to claimant, a convenience store owner in Panama City, Florida. BP asserts two issues for review: bank charges and merchant account fees were misclassified as fixed expenses and not as variable; and inventory adjustment expense was not classified as variable. The eligibility notice issued acknowledged the claim was not sufficiently matched and applied the Annual Variable Margin Methodology to calculate claimant's revised award. Initially BP contends since claimant showed a credit card fee entry in its financial records only in 2010



credit card fees must have been commingled with bank charges for the years 2007-08 and with merchant account fees for 2009. These fees BP contends if indeed a part of bank charges and merchant account fees would be listed incorrectly as a fixed expense. BP surmises that monthly fluctuations in the records should have alerted the Claims Administrator that some of these were variable and not fixed and prompted further examination. A review of the record discloses that the contention these two entries contain variable credit card fees is conjectural and has no basis in fact (and mirrors the final proposal submitted by BP). Mere fluctuations in monthly bank charges did not warrant further scrutiny. Exhibit 4D of the Settlement Agreement permits these charges to be classified as fixed expenses. Finally BP argues the entry inventory adjustment was wrongfully excluded from the award calculation when it should have been classified as a variable expense related to adjustments of inventory sold. There is no basis in the Settlement Agreement to support this argument. Under the baseball process that governs the outcome of this appeal, claimant's final proposal has more support in the record. The appeal of BP is denied.