



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	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	\$0
	Risk Transfer Premium	1.50
	Prior Payment Offset	\$27,030
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$25,649.79
	Risk Transfer Premium	1.50
	Prior Payment Offset	\$27,030

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):

Decision comment uploaded to portal

██████████

CLAIM ID No. ██████████

BP appeals this award to a real estate agent in ██████████, Louisiana. The basis of the appeal is the complaint that there were entries of commission income in months in which they were received, without smoothing them out over the several months each listing supposedly would have been active. BP argues the application of the Annual Variable Margin Methodology (“AVM”) under Policy 495 does not sufficiently cure this matching issue.

BP argues this “lumpy revenue pattern” does not reflect Claimant’s economic reality, stating it is a near certainty that most of the earning activities leading to these sales commissions would have occurred in months prior to those in which the revenues were recorded. In BP’s view, Claimant earned her commission throughout the sales process, but was simply paid all at once at the end of that process.

BP asserts the Settlement Program’s failure to assign revenue to the months in which it was actually earned violates Policy 495 and the Courts’ rulings. Here, the Settlement Program determined that Claimant’s financial data were not sufficiently matched, and in response, applied the AVM methodology. BP argues that this methodology is incapable of correcting revenue misattribution problems, as “The Annual Variable Margin Methodology only redistributes *expenses* (allocating them according to revenues, which in this case are precisely the problem), and thus cannot solve the problems with the claim, namely that *revenues* are recorded in the wrong months.”

Determination of the applicable methodology is controlled by Attachment A to Policy 495, entitled “NAICS CODES ASSIGNED TO MATCHING FRAMEWORK.” *Id.* at A1. The attachment lists the NAICS codes that fall into each of the special categories enumerated therein, including Professional Services.

Attachment A does not list any NAICS codes for real estate brokers and agents. It was certainly known to all parties that there were a significant number of claims filed by members of the real estate industry during the Policy developmental process. Had the Claims Administrator and CSSP Vendors felt this industry should be analyzed under the PSM methodology, they would have included the appropriate NAICS codes in Attachment A. They did not.

As has often been observed in other Panel Decisions, Policy 495 requires sufficient matching, not exact matching, of revenues to expenses. Exact matching was addressed in the

implementation of Policy 495, where the Claims Administrator noted that, “It is not feasible in the context of a class-wide settlement involving thousands of different claims , with each claimant’s financial information potentially spanning a time period in excess of four years, to attempt to match specific expenses to specific revenues on an individual transaction by transaction basis. The time, effort and expense required under this approach would be prohibitive.” Policy 495, Setting forth “Underlying Principles/Issues” No. 4, p. 3.

BP’s appeal is denied, and the award of the Claims Administrator is affirmed. Claimant’s Final Proposal is selected.