



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business	First	Middle
	[REDACTED]		
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 checked="" type="checkbox"/> BP's Final Proposal	Compensation Amount	\$23,883
	Risk Transfer Premium	.25
	Prior Payment Offset	\$250,000
<input type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$1,000,000
	Risk Transfer Premium	1.25
	Prior Payment Offset	\$250,000

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):

██████████. filed this Business Economic Loss claim. The Settlement Program awarded \$23,883.00 in lost profits, pre-RTP. After an offset for earlier payments of \$250,000, the Settlement Program found Claimant was unentitled to any further payments. Upon reconsideration, the Settlement Program reached the same conclusion. ██████████ appeals.

Claimant is a licensed real estate broker. While BP contends Claimant is a real estate developer and thus excluded from recovery under the Settlement Agreement, I need not reach that issue.

In September 2009, ██████████ located a potential purchaser for the property in question. An Option to Purchase and Sell Commercial Property was also signed in September, 2009. *See* ██████████' Statement of Claims, Ex. 4. The same document states that the Option to Purchase expired on November 1, 2009 – well before the Spill occurred. The parties struck from the Agreement, and all initialed, a provision permitting the extension of the option beyond November 1, 2009. *See* Ex. 4, paragraph 3. In addition, the intent of the parties for November 1, 2009 to be the expiration date is reflected in Paragraph 12, "Other Conditions." The handwritten and initialed note added to Paragraph 12 spells out steps to be taken in October 2009, before the intended November 1, 2009 expiration.

██████████ states the Buyer had approval for financing of the purchase price, which was \$4,750,000 plus a one million dollar commitment to pay ██████████ ██████████ for its professional services. The approval is Ex. 5 of the Statement of Claims. It is for \$107,500,000 – more than 20 times the purchase price of the subject property. The approval is dated September 14, 2009.

The November 1 deadline passed without a closing.

After the April, 2010 Spill, cancellation of the approval occurred. Interestingly, a closing was also scheduled for July, 2010. Various parties then submitted documents blaming the failure of the expired options to be exercised on the Spill. The file materials raise questions about the legitimacy of the post-option expiration events. However, I affirm the Settlement Program's determination on other grounds but recite these details for purposes of the full record.

Following the Spill, Claimant filed a claim with the Louisiana Realtors Relief Fund for a \$1,000,000 lost commission. The Relief Fund had a working arrangement with the GCCF. The GCCF made an offer of \$25,000 to Claimant in October, 2011. It expired in November, 2011. Several months later, the GCCF ceased operating.

The Settlement Agreement governs this appeal. It provides – in instances where there is a non-expired GCCF offer – for potential recovery under the Settlement Agreement. The offer made here, however, had expired months before. The result is that ██████████ has no remedy under the Settlement Agreement.

This is a "baseball" appeal, meaning the Final Proposal closest to the correct result prevails. Both parties agree to a Payment Offset of \$250,000. BP's Final Proposal, which echoes the Settlement Program's award, is closest to being correct.

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