



**APPEAL PANEL DECISION FORM**

**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>\$28,017</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>\$35,488.98</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)*:

Decision uploaded to portal

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Claimant is a real estate sales agent located in ██████████ Florida (Zone C)). BP appeals this award, stating the Settlement Program failed to use financial data that properly matches revenues with their corresponding expenses, resulting in overstating Claimant's pre-Spill economic performance and inflating his award.

BP complains that the Settlement Program should have applied the Professional Services Methodology ("PSM"), and instead applied the Annual Variable Margin ("AVM") methodology; an argument made in many prior real estate related matters..

The Settlement Program correctly determined that this claim was not sufficiently matched in the initial examination, which required a determination of the applicable methodology to achieve sufficient matching. The program selected the AVM methodology, with which BP takes issue..

As this Panelist has held in several prior decisions, 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. Further, the attachment explains, "In identifying those NAICS codes that would most likely fall into each methodology there is a particular focus on the 'specialty' methodologies – Construction, Professional Services, Agriculture, and Educational Institutions – with all other NAICS codes defaulting to the Annual Variable Margin (Short Revenue Cycle) methodology." Policy 495 at A1.

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.

A review of the CAO's record regarding this claim reveals the Settlement Program's satisfaction that the Claimant's financials were "sufficiently matched" after implementation of the AVM method. The Settlement Program found no reason to deviate from CAO Policy 495's default provision at A1 in applying the AVM methodology.

The AVM methodology was appropriate for this claim and the Settlement Program's analysis was correct. The Award is upheld, and Claimant's Final Proposal is hereby selected.