



## APPEAL PANEL DECISION FORM

### I. CLAIMANT AND CLAIM INFORMATION

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First [REDACTED]	Middle [REDACTED]
<b>Claimant ID</b>	[REDACTED]	<b>Claim ID</b>	[REDACTED]
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	[REDACTED]		

### II. DECISION

**Denial Upheld**

**Denial Overturned**

### 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.

**Claim should have been excluded.**

**Claim should have been denied.**

**Claim should not have been excluded.**

**Claim should not have been denied.**

**No error.**

**Comment** *(optional)*:

Written reasons uploaded

CLAIMANT: [REDACTED]  
CLAIM ID: [REDACTED]

This [REDACTED] Mississippi business filed a BEL claim which was twice reviewed and twice denied by the Claims Administrator. The claim was denied because the Claims Administrator determined that Claimant's financials did not meet the requirements of Exhibit 4B of the Settlement Agreement. Claimant appeals.

The sole issue on appeal is whether the Claims Administrator erred when it did not include Claimant's revenue from "property sales" in 2008 and 2009. It is clear from a review of the record in this matter that Claimant's primary revenue source is from the rental of commercial real estate it owns. Claimant's NAICS Code is 531120 - Lessors of Nonresidential buildings. Claimant does not complain that the Claims Administrator erred when it excluded revenue from the sale of other assets such as timber sales. Further, in 2010 the great majority of its revenue (over 97%) was from rent income on over 20 separate commercial properties.

Policy 328 provides:

The Claims Administrator interprets the Settlement Agreement such that the following items shall not typically be treated as "revenue" for purposes of the various calculations to be performed under the terms of the Settlement Agreement with regard to entities asserting BEL claims: (a) insurance proceeds, (b) interest income, (c) gains or losses from sales of assets, (d) reimbursed expenses, (e) capital assessments, (f) intercompany sales, (g) related party transactions that are not arm's length transactions, and (h) grants for "for-profit" entities. The foregoing is not an exhaustive list. The Claims Administrator in his discretion may require that the claimant provide further explanation and/or additional documentation underlying the monthly revenue and related expense amounts in question. In arriving at this conclusion, the Claims Administrator has in part relied upon the fact that these items are not typically earned as revenue under the normal course of operations in an arm's length transaction.

The Claims Administrator was correct in excluding from revenue the asset sales in question. With the sales excluded, Claimant does not meet the requirements of Exhibit 4B of the Settlement Agreement. Accordingly, this claim was properly denied.