

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business ██████████.	First ██████████	Middle ██████████
Claimant ID	██████████	Claim ID	██████████
Claim Type	Business Economic Loss		
Law Firm	██████████		

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):

Claimant, a Florida furniture manufacturer, has thrice been denied a BEL award and now appeals. Although Claimant had retained counsel, this record is sadly absent any memorandum in support of Claimant. From what can be gleaned in its Appeal Notice, Claimant asserts it qualifies under the Decline-only revenue pattern of Exhibit 4B based upon a Benchmark period of 2009. It notes that it had no recovery in 2011 because, based on the affidavit of Claimant's owner/President, it was forced by the Spill to short-sell its large facility in 2011. It also attached sales spreadsheets showing sales declines for customers in Zones A to C during months relevant to its claim. As pointed out by BP in brief, for its Recovery Zone, Claimant under Exhibit 4B must meet all three prongs of the Decline-only test. The second prong requires THIRD PARTY documentation of factors preventing its recovery in 2011. Policy 474 echoes this requirement, and it is a reasonable one. Claimant's affidavit executed by its owner/President does not suffice. Claimant also falls short of the third prong of the test, requiring CONTEMPORANEOUS or in-course-of-ordinary-business records showing its decline during relevant periods was attributable to non-local customers. Claimant's spreadsheet allocated among customers in Zones A thru C was obviously not prepared contemporaneously or in course of ordinary business, as such Zones were not even named until after the approval of the Settlement Agreement. This panelist might have found differently had Claimant's counsel responded to BP's arguments, but alas, through no fault of Claimant, we will never know.