



**APPEAL PANEL DECISION FORM**

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First	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**

**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)*:

[REDACTED]

The Claimant appeals the denial of its BEL claim under the Settlement Agreement. After two incompleteness notices, the Claims Administrator denied the claim on the grounds that the Claimant, a retail store in Zone D, failed to establish causation. On appeal, the Claimant seeks remand, contending that it satisfies the Decline-Only Test in Exhibit 4B.

This appeal centers on the requirements for a Claimant located in Zone D to satisfy the Decline-Only Test. Exhibit 4B, Section III C requires the Claimant to demonstrate:

1. DOWNTURN: a decline of an aggregate of (15%) fifteen percent or more in total revenues over a period of three consecutive months between May - December 2010 compared to the same months in the Benchmark Period selected by the Claimant without a recovery in the corresponding months of 2011;

AND

2. Specific documentation identifying factors outside the control of the Claimant that prevented the recovery of revenues in 2011:
  - The entry of a competitor in 2011
  - Bankruptcy of a significant customer in 2011
  - Nearby road closures affecting the business
  - Unanticipated interruption resulting in closure of the business
  - Produce/Source replacement by Customer
  - Loss of financing and/or reasonable terms of renewal

BP argues that Policy 474 requires a Zone D claimant to furnish objective, third-party documentation to satisfy the second element of the Decline-Only Test. As to this argument, BP is correct. The record reflects that the Claimant submitted a written statement by its owner detailing various reasons for the financial problems affecting the Claimant's business. A thorough search of the record does not yield any other evidence or effort by the Claimant to satisfy the second component of the Decline-Only Test. Although sincere, the owner's statement fails to comply with the objective documentation mandate of Policy 474. It also runs afoul of the requirement of

demonstrating factors outside of Claimant's control that prevented the recovery of revenues. The rationale behind Policy 474 is to require objective disinterested verification of factors preventing the recovery of revenue in 2011. This policy is well grounded in the provisions of Exhibit 4B. There is no basis for remand and no error in the Claims Administrator's denial of this claim.