



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	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 type="checkbox"/> BP's Final Proposal	Compensation Amount	\$0
	Risk Transfer Premium	1.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$43,257.91
	Risk Transfer Premium	1.25
	Prior Payment Offset	\$0

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)*:

Written reasons uploaded

CLAIMANT: [REDACTED]

CLAIM ID: [REDACTED]

The Claimant, a [REDACTED] Louisiana machine shop, filed a BEL claim with the Settlement Program and was awarded the sum of \$43,257.91 (pre-1.25 RTP).

BP appeals asserting the Claims Administrator:

- 1) failed to determine if Claimant is excluded under the Oil & Gas Exclusion;
- 2) failed to determine if any of Claimant's losses were moratoria-related;
- 3) inadequately addressed discrepancies in Claimant's financials; and,
- 4) mis-classified expenses.

BP's Notice of Appeal reads as follows:

"As the basis for the appeal, BP states that the award does not comply with the terms of the Settlement Agreement, including without limitation the BEL framework. The Settlement Program failed to properly substantiate revenue. Further, the Settlement Program erred in its classification of certain expense items, including without limitation "Subcontract Services" and "Subcontract Labor." Also, BP states that the Settlement Program did not perform a proper evaluation of whether any claimed losses were due to the federal moratoria."

The Notice of Appeal does not list the "Oil & Gas Exclusion" as a basis for appeal. In spite of that, this Panelist reviewed this allegation through a review of the record. The Claimant's NAICS Code on its Claim Form is 332710 - "Machine Shops". That code number is not listed in Exhibit 17. On its tax returns, Claimant lists NAICS Code 811310 - "Commercial and Industrial Machinery and Equipment Repair and Maintenance". That code number is not listed in Exhibit 17. BP asserts the proper NAICS Code for Claimant is 333132 - "Oil and Gas Field Machinery and Equipment Manufacturing", a code listed in Exhibit 17.

There is no question that some of Claimant's customers are in the Oil & Gas industry. However, a thorough review of the record does not convince this Panelist that the Claims Administrator erred in failing to exclude this Claimant under Section 2.2.4.5 of the Settlement Agreement. For example, a food distributor who supplies groceries to offshore oil & gas companies is not in the Oil & Gas industry. A uniform company who supplies uniforms to offshore oil & gas companies is not in the Oil & Gas industry. Thus, even if the Oil & Gas Industry Exclusion is on the table in this appeal, it is without merit.

Next, BP correctly points out that Claimant's gross revenue in 2010 was \$18,338.00 higher in 2010 than in 2009. Yet it faults the Settlement Program for not determining that Claimant had moratoria-related losses in 2010. While the terms of the Settlement Agreement, signed by BP, allow the Claimant to meet the requirements of causation for this BEL claim, there is no merit to BP's assertion that Claimant's losses are moratoria-related.

On Issue 3, the Claimant addressed the involved spike in revenue in October of 2007 after inquiring by the Claims Administrator. The Claims Administrator was satisfied with the explanation and this Panelist finds no error in that resolution.

Finally, if BP's allegation that mis-classification of expenses is correct, Claimant's Compensation Amount would be reduced by \$1,286.00 (3%). Given the baseball arbitration demands of the Settlement Agreement, Claimant's Final Proposal is the correct result.