

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	██		

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, the owner of commercial rental property located in ██████████, appeals the denial of its BEL claim on the basis it failed to satisfy the causation requirements of Exhibit 4B of the Settlement Agreement. Claimant asserts the Settlement Program (SP) misapplied policy 495 when revenues collected from additional rents at the end of the fiscal year to pay annual property taxes were allocated evenly to preceding months of the fiscal year. Claimant contends it properly recorded these payments on its P&Ls for the month billed and collected and the SP had no authority under policy 495 to make any adjustments thereto. Finally, claimant concludes had the SP simply used the AVM methodology without this adjustment, claimant would have satisfied the causation requirements of Exhibit 4B. A review of the record shows this entry in the Calculation Notes: "As explained in the lease agreements, Claimant collects annual property taxes from the lessee. Even though the amount is remitted at the end of the year as the invoice is received from the city, the revenue and expense covers all twelve months of the claimant's fiscal year. Therefore, Accounting Review entered an adjustment in revenue to reflect the amount earned on a monthly basis by dividing the annual Property Tax income by twelve." This adjustment by the SP was within the permissible bounds allowed by certain provisions of policy 495. First, policy 495, paragraph 4, p.1, provides: "For those unmatched claims, the claimant-submitted accounting records are to be adjusted 'in light of the necessity of revenue and expense matching to realistic



measurements of economic loss.'...'Later, paragraph 7, p.3, of policy 495 states: "Depending on the specifics of a given business, it may be appropriate to make adjustments to the claimant's financials as to the timing of the recognition of either revenues, expenses or both." Recent panel and court decisions have recognized application of these principal provisions in similar real estate-related BEL claims. This panelist thus concludes the SP exercised proper, reasonable professional discretion in the evaluation of this claim and there is no basis to disturb its decision. The appeal of claimant is therefore denied.