

## APPEAL PANEL DECISION FORM

### I. CLAIMANT AND CLAIM INFORMATION

<b>Claimant Name</b>	Last/Name of Business ████████████████████ ██████████	First ██████████	Middle ██████████
<b>Claimant ID</b>	██████████	<b>Claim ID</b>	██████████
<b>Claim Type</b>	Start-Up Business Economic Loss		
<b>Law Firm</b>	████████████████████		

### 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 window cleaning business in ██████████, appeals the denial of its reclassified Start-Up Business BEL claim on the basis it was not an operating business on or before April 20, 2010. Claimant asserts the Settlement Program (SP) erred in classifying its business in this fashion because it had been an ongoing business since 1999 and warranted analysis of its claim under the general BEL framework of the Settlement Agreement. Claimant's argument is bottomed in part on the provisions of Exhibit 7 of the Settlement Agreement that defines a Start-Up Business as a claimant with less than eighteen months of operating history at the time of the DWH Oil Spill. Claimant asserts it was incorporated in January 1999, began to do business thereafter, and filed federal tax returns for the years 2007-2011. Claimant also demonstrates it filed annual reports for those years with the State of ██████████ and incurred and paid incidental expenses therewith. BP responds the SP was justified in its decision because the record shows claimant endured an extended period of dormancy between July 2009 and October 2011. A review of the record confirms this contention. For the years 2007 and 2008 claimant reported gross revenues of \$481,000 and \$595,000, but in 2009 revenues of \$200,000 and in 2010 only \$1,450. In July 2009, claimant recorded monthly revenues of just \$1,513 and beginning in August 2009 no revenues at all each month for the next two years. These records also show that claimant did not record



revenues again until October 2011. When queried by the SP what the \$1450 in gross receipts on the 2010 tax return represented claimant responded: "The Claimant had no (or minimal) income or expenses...because the Claimant's owner was working for another of his businesses while he was trying to determine whether...to move...forward. The \$1450 figure you mentioned was a contribution of capital made by the owner that was incorrectly coded and reported for tax purposes as income." These essential facts of record thus evince "at the time of the DWH Spill" claimant did not have an eighteen month operating history because its operations had been dormant for over the nine months preceding the DWH Spill. Under a totality of the circumstances analysis contemplated by policy 362, there is not sufficient indication that during this operative period claimant performed full-time services or incurred substantial expenses of a nature indicative of the actual business operation. Any claimed economic loss was attenuated from the DWH Spill and is not otherwise supported by the record. There is no error. The decision of the Claims Administrator is affirmed and the appeal of claimant is denied.