

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	\$46,449
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$67,232.84
	Risk Transfer Premium	.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)*:

See attached opinion uploaded into the portal.

DWH: [REDACTED]

Claim ID: [REDACTED]

Written Reasons and Opinion:

This Claimant is in the business of transporting mobile homes. It is located in [REDACTED] (Zone D). Following analysis of its financial data in keeping with the requirements of CAO Policy 495, and application of the Annual Variable Margin Methodology to correct certain matching issues, the Claims Administrator issued an Eligibility Notice containing a pre-RTP compensation amount of \$67,232.84. This BP appeal promptly followed.

BP alleges that the Claims Administrator committed error in relying upon profit and loss statements that omitted significant expenses that Claimant incurred during its Benchmark Period. Specifically, BP notes that Claimant's December, 2009 bank statement reflects a \$57,032 check written by Claimant that cleared its account on December 31. Since Claimant keeps its books on a cash basis, BP asserts this expense should have been recorded at the time that the payment was made. However, this expense was not recorded on Claimant's P&Ls. BP notes that this amount does not correspond to any individual expense recorded in that month, nor does it correspond to Claimant's total expenses for that month. BP further contends that although the claims analyst reviewed Claimant's bank statements, he or she appears to have done so only for the purpose of substantiating Claimant's revenue, not its expenses. The analyst did not request, and Claimant did not provide, any explanation of what this expense related to and why it was omitted from Claimant's P&Ls. Exclusion of this expense without good reason, says BP, artificially inflates Claimant's Benchmark Period variable profit and, by extension, its award. In a footnote, BP states:

Claimant shares a common owner with [REDACTED], a mobile home sales business. [REDACTED] told the Settlement Program that a mobile home unit was purchased and sold in December 2009 and delivered to the customer by Claimant. *See* [REDACTED]. This expense could relate to the purchase of that mobile home by [REDACTED], a related entity, but it is unclear given the lack of inquiry by the Settlement Program. The absence of sufficient information in the record to determine the nature of this expense underscores the need for remand.

In a short and concise response, Claimant states:

BP acknowledges that the accounting vendors reviewed the claimant's bank statements, but speculates they were reviewed only to confirm revenues. BP is wrong.

BP assumes that *all* checks will be reported within a business's P&Ls, which is not accurate. Also, BP fails to consider that every business has a balance sheet. The particular check in question was written to [REDACTED] for debt service on loan number [REDACTED]. The \$57,032 total was applied as follows: \$56,809.79 (principal balance shown on the balance sheet—see attached) and \$222.56 (allocated to interest expense on the P&L). It is that simple.

* * *

. . . BP has submitted nothing that supports its assertion that the accounting vendors failed to sufficiently examine this matter. In fact, BP's argument is pure speculation, as evidenced by its own statement that "[t]hrough the Settlement Program reviewed the Claimant's bank statements, it *appears* to have done so only for the purpose of substantiating Claimants revenue, not its expenses." (Emphasis mine.) Even BP does not *appear* very convinced with its argument, as this statement is conjecture instead of fact.

An excerpt from Claimant's General Ledger for the month in question confirms Claimant's position. BP's assumption is obviously incorrect.

For the foregoing reasons, this BP appeal cannot be sustained. The Claims Administrator committed no error. Claimant's Final Proposal is hereby selected.

Decision: October 23, 2015