

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

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

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):

██████████ appeals the denial of his start up business claim. The Settlement Agreement provides , in order to qualify as a new business entrant, an entity must show an operating history prior to April 20, 2010. The claim in the immediate case is for losses sustained relative to claimant's vacation rental home which he purchased on August 24, 2009. According to ██████████, he incurred "significant" expenses from December 2009 through April 2010 in order to begin renting the property. In support of this contention, claimant submitted credit card records showing purchases at Home Depot and other stores which were allegedly for supplies relating to repairs on the home. ██████████ contends these expenses were reported business expenses on Schedule E on his tax return. There is also a document in the record wherein the real estate agent who sold him the property stated that he purchased the house with the intention of renting it as a vacation home after repairs were completed. Additionally, claimant submitted a building permit issued on March 10, 2010 relating to the construction of a deck on the property. BP, on the other hand, points out that the agency agreement with the property manager is dated 5/6/2010 and claimant did not begin renting the property until May, 2010. Additionally, BP also correctly states that the supplies purchased totaled only \$325.49 and there was no way to determine whether the purchases at Home Depot and other stores were for personal use since the records do not identify the items purchased. Most importantly, BP referenced the fact that claimant's P and Ls do not show any revenues or



expenses until May, 2010. Moreover, there is no way of determining in what month any of the supplies were purchased even though they show up on the 2010 tax returns. If the P and Ls are accurate, no supplies were purchased before May, 2010. Claimant raises a question as to whether the original version or the revised version of Policy 362 should apply in this case. The original policy frames the test in terms of when a business begins incurring expenses and revenues. The revised edition discusses a totality of circumstances, including consideration of whether the business starting incurring substantial costs indicative of the start up of a business. In the immediate case, this Panelist believes it should not make a difference which version of Policy 362 is considered. A few hundred dollars of purchases which cannot be definitively tied to repair of the building is not sufficient to demonstrate the entity was doing business. These purchases are even less probative when they do not appear on claimants P and Ls for the relevant time period. A letter from the real estate agent and a building permit to build a deck are not enough to change the equation. Without being able to demonstrate expenses or revenues tied to the business prior to May 2010, this claim is due to be denied. Accordingly, claimant's appeal is dismissed.