

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 BEL claim. Mr. ██████████ owns a house in ██████████ and filed his claim seeking to recover losses for his inability to rent the house in 2010 due to the Spill. The Claims Administrator initially denied the claim on the basis that his business operation commenced after April 20, 2010 and he therefore did not qualify as a start-up business. In response, Mr. ██████████ provided tax returns and financial statements showing rental of the house in 2009 and 2011. There was no rental income in 2010. The Claims Administrator then denied the claim after reconsideration, finding that "[w]e cannot allow your claim for the reason that we are unable to determine causation and/or calculate a compensation amount under the BEL frameworks because you were not doing business or operating in the Gulf Coast Areas or Specified Gulf Waters at the time of the Oil Spill, April 20, 2010. The Claims Administrator's decision appears to turn on the inability of Mr. ██████████ to provide rental agreements and documentation showing efforts to rent the property in 2010. The record contains financial statements for 2009 and 2011 showing rental income of \$67,500 in 2009 and \$43,750 in 2011 and tax returns for those years reconciling to the financial records. Mr. ██████████ has also provided a SWS indicating that he did not advertise the property for sale because he had easily rented it "by word-of-mouth" as well as a SWS from a local realtor who had mentioned the property to two prospective tenants in 2010, without success. Mr. ██████████ apparently ██████████ in 2008 and, as a result, cannot



locate the rental agreements for 2009. BP defends the denial of the claim because of “multiple inconsistencies and gaps” in documentation, noting that Mr. ██████’s financial statements were not created contemporaneously and that his tax returns for 2009 and 2010 were not filed until 2011. Undoubtedly, the claimant’s health issues contributed to this delay, but the record reflects that they were in fact filed and do indeed reconcile. He has provided affidavits supporting his position of which there is no evidence in the record to dispute the authenticity. Exhibit 7 requires a Start-Up BEL claimant to demonstrate business operations prior, but less than eighteen months prior, to April 20, 2010. Policy 362 v. 2 provides that the Claims Administrator’s analysis of whether that test was met is based upon the totality of the circumstances. After a careful review of this record and application of the above, this panelist finds that the claimant meets the definition of a Start-Up business and that the denial of his claim was in error.