

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	<small>Last/Name of Business</small> ████████████████████	<small>First</small> ██████████	<small>Middle</small> ██████████
Claimant ID	██████████	Claim ID	██████████
Claim Type	Business Economic Loss		
Law Firm	████████████████████		

II. DECISION

Denial Upheld

Denial Overturned

Remand to Claims Administrator

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 chain operator of a general merchandise center 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. Initially a denial notice issued on April 7, 2014, informing claimant in general terms that it had not satisfied any of the causation requirements of Exhibit 4B. Claimant sought Re-Review relief asserting that it should have been designated a tourism business and as a zone B business accorded presumptive causation making satisfaction of any of the Exhibit 4B revenue pattern tests unnecessary. This relief was denied on April 6, 2015, with the Settlement Program (SP) refusing to designate claimant's business as a tourism business. Claimant then sought Post-Reconsideration relief which was denied on August 6, 2015. A review of the record further discloses that two other consequential events occurred in near proximity to the last denial. In early August 2015 there were rendered several panel decisions in other companion claims that affirmed the decision of the SP denying a tourism designation to similarly-situated claimants. About this same time on August 3, 2015, the SP entered onto the portal document ██████████ styled "P/L Detail for Causation Denial." This entry recited these essential findings: "It has been determined that the documentation provided is not sufficient to



establish causation based on Exhibit 4B of the Settlement Agreement. Please note that although claimant passes the mathematical portion of the Decline-Only Causation Test, the claimant did not establish causation for the Decline-Only Causation Test as the claimant did not provide specific documentation that identifies factors outside the actual control of the claimant that prevented recovery of revenues in 2011 as required by Exhibit 4B of the Settlement Agreement. Accordingly, under Policy 474, a Denial Notice has been issued for failure to establish causation. "Claimant argues that these two revelations altered its understanding of the claim's earlier general denial and provide a reasonable basis for claimant to have this claim remanded to the SP so that claimant can present the necessary information required by the Settlement Agreement. BP in response opposes remand contending claimant had ample opportunity to process its claim. This panelist concludes the provisions of the Settlement Agreement allow remand in this instance as do other panel decisions. See also Discretionary Review decision in claim number [REDACTED], August 2015. Accordingly the decision denying the claim is vacated and set aside and this claim is remanded to the Claims Administrator for reevaluation upon claimant's submission of all relevant documentation.