

## 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>	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, the owner and lessor of real property in ██████████, appeals its thrice-denied BEL claim on the basis claimant did not satisfy the causation requirements of Exhibit 4B of the Settlement Agreement. Claimant asserts the Settlement Program (SP) wrongfully applied the provisions of policy 495 when it adjusted claimant's P&Ls and attributed rental income over the months of applicable lease periods rather than to the single month when lump-sum payments were received and recorded. Claimant further argues that policy 495 is contrary to law and the Settlement Agreement. The record reveals the claim was not sufficiently matched and the SP used the AVM methodology in analyzing the claim because several criteria were triggered. See Accountant Causation Calculation Schedule, document number ██████████. Relative to claimant's threshold argument that policy 495 contravenes the Settlement Agreement and the law, it must be remembered that enactment and application of policy 495 is a judicial outgrowth of recent appellate decisions mandating such measures when processing BEL claims under the framework of the Settlement Agreement. Claimant's contention that policy 495 contains no provisions for the action undertaken by the SP to adjust claimant's P&Ls and reallocate revenues is equally incorrect. First, policy 495, paragraph 4, p.1, provides: "For those unmatched claims, the claimant-submitted accounting records are to be adjusted 'in light of the necessity of revenue and expense matching to realistic measurement of economic loss.'..." Additionally, paragraph



7,p.3,provides:"Depending on the specifics of a given business,it may be appropriate to make adjustments to the claimant's financials as to the timing of the recognition of either revenues,expenses or both." Recent panel decisions and court decisions(reviewing earlier panel decisions) have recognized and approved application of these principles in factually similar BEL claims.See claim number [REDACTED],discretionary review number [REDACTED].The SP exercised reasonable professional discretion in evaluating this claim and there is no basis to disturb this decision.Accordingly,the appeal of claimant is denied.