

## 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>	Failed 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)*:

This is yet another appeal by a represented Claimant whose counsel regrettably failed to file any supporting memorandum with its appeal. The matter involves a BEL claim by a hotel/resort operator in ██████████, converted by the Program into a Failed BEL claim and found to not qualify for an award under the causation formulae of Exhibit 6 of the Settlement Agreement. In its Notice of Appeal, Claimant asserts that as opposed to the Program vendors' findings that it ceased operation in October of 2010, it in fact continued to operate as per ██████████ Secretary of State records until February of 2012. It thus asserts that it was not a Failed Business under Program standards, but was rather an ongoing business which would have qualified for a BEL award under those causation standards. Alternatively it asserts that it did not have the chance to submit documentation for a Failed BEL award because the program remitted a Denial Notice instead of an Incompleteness Notice. Under Exhibit 6 and Section 38.68 of the Agreement, a business is considered Failed if, in part, it ceased operations after May 1, 2010 but before Dec. 31, 2011. The record herein shows that Claimant sold its operation (Doc. ██████████) on ██████████, and thus ceased to operate on that date, which is included within the Failed BEL parameters. Its P&Ls show no revenue after ██████████, further confirming its status as a Failed Business under the Agreement. Claimant's sole submission after its Notice of Appeal is an unexplained 2012 partnership tax return filed on behalf of ██████████, an entity based in ██████████, bearing a



different name from Claimant, and using a different EIN from the one used by Claimant in its Program Claim Form. Such a submission falls far short of establishing operations by Claimant after Dec. 31, 2011. As for its alternative argument (which technically was waived under the Program rules by its failure to file a supporting memorandum) that it did not have the chance to submit documentation to qualify for a Failed BEL award, the record shows otherwise. Indeed, Claimant filed no new documentation when it applied for reconsideration of the Denial Notice. This claim was properly denied based upon a de novo review of the record.