

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	Middle [REDACTED]
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Business Economic Loss		
Law Firm	[REDACTED]		

II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

<input type="checkbox"/> BP's Final Proposal	Compensation Amount	\$39,293
	Risk Transfer Premium	2.50
	Prior Payment Offset	\$1,425
<input type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$169,093.79
	Risk Transfer Premium	2.50
	Prior Payment Offset	\$1,425
<input checked="" type="checkbox"/> 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.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

Comment *(optional)*:

Written reasons uploaded

CLAIMANT: [REDACTED]

CLAIM ID: [REDACTED]

Claimant's, a [REDACTED] condo association filed this BEL Claim and was issued an award by the Claims Administrator (CA).

BP appeals on two grounds, one of which (prior payment offset) was conceded by Claimant in its Final Proposal. The other issues raised by BP involves how the CA treated Claimant's alleged general/special assessments.

The "special assessments" issue involves increased insurance costs as a result of recent hurricanes. When queried about the involved assessments, Claimant's counsel responded:

"The insurance assessment is due to the higher costs of insurance after hurricanes Ivan and Katrina. Instead of raising the dues, the owners choose a once a year assessment. This assessment is based upon the cost (of the) insurance minus the amount that is budgeted. The remaining amount, we assess for with the insurance assessment".

In a recent decision by another appeal panelist (Claim ID: [REDACTED]), the Panelist noted:

"Recently, in a case cited by BP, the District Court held that town home association special insurance assessments were clear and distinct expense pass-through in nature and as such were properly excluded from revenue pursuant to Claims Administrator Policy 328 v. 2. In another related District Court decision also cited by BP the court held that while assessments in general are considered as revenue, assessments in the nature of special assessments for expense reimbursement are typically not considered revenue in accordance with Policy 328 v. 2. Claimant's attempts to distinguish these District Court decisions from this matter are not convincing. Insurance expenses that are reimbursed by special assessments are "reimbursed expenses", whether the association pays the premium before or after collecting the assessment".

The foregoing appeal panel decision and the rulings of the District Court cited above are directly on point in this appeal. The CA erred in including the special insurance assessments as revenue.

Finally, BP's allegations regarding the CA's handling of the Claimant's general assessments are without merit. Claimant's Final Proposal is not supported by the file materials. BP's Final Proposal is not supported by the file materials. Therefore, this matter is remanded to the CA to recalculate the Eligibility Amount after removing the special insurance assessments from revenue.