

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	Middle
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Individual 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 checked="" type="checkbox"/> BP's Final Proposal	Compensation Amount	\$0
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$33,730.69
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0

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.**
- Claim should have been denied.**
- No error.**

Comment *(optional)*:

See Separate Decision

Appeal Panel Decision Reasons

██████████

Claim ID ██████████

██████████ received an IEL award of \$33,730.69 pre-RTP. BP appeals, asserting that claimant is not entitled to compensation. This claim has previously been submitted to the Appeals Panel, at which point it was remanded based on the finding that the Employer Sworn Written Statement was conclusory and inadequate. Claimant has now submitted a second employer statement in support of his claim.

The gravamen of appellant's current argument is that ██████████'s second statement is also inadequate and, therefore, he has not satisfied the causation requirements delineated in the Settlement Agreement. There is some evidence in the record that claimant's employer has filed a BEL claim but there is no indication this claim has been resolved and, therefore, no determination the employer is an Eligible Employer. Nevertheless, ██████████ chose to proceed with the support of an Employer Statement.

Pursuant to Exhibit 8A 2 b. of the Settlement Agreement, for individuals filing without presumed causation, a claimant must establish the claiming job is with an Eligible Employer or must submit an Employer Statement attributing the loss of income during the Compensation Period to the DWH spill. This provision also provides: "The Employer's Sworn Written Statement must articulate in detail how the claimant's losses at the Claiming Job are casually related to the DWH Spill." See 8A 2 b.ii.

In the immediate case, the statement from the employer reads as follows: The Company is a Plumbing Contractor Whose Projects Include Commercial, Residential and Service. Our Revenues are generated Through General Contractors and End Users For the Benefit Of Investors, Seasonal Residents and Tourists. We have filed a DWH Claim # ██████████ With Supporting Data Showing Revenue Reduction That Led to Reduced Hours and Pay for Many of our Employees Including ██████████." These are the points made by this filing. The company does plumbing work through general contractors and end users for the benefit of investors, seasonal residents and tourists. The company filed a DWH claim which represents that the company's employees, including ██████████, had a decline in earnings.

One might deduce that an entity based in ██████████ that does some work for seasonal residents and tourists was affected by the spill. However, deduction is not enough. Except for the reference to its own claim, the employer does not clearly state that claimant lost money due to the spill or how or why the claimant lost money due to the spill. The representations at issue do not rise to the level of detail required by the Settlement Agreement which provides the statement "must articulate in detail how the claimant's losses at the Claiming Job are casually related to the DWH Spill."

A dismissal of this case due to an inadequate sworn statement seems like a harsh result and this Panelist has considered remanding this case in hopes of getting a more detailed statement.

However, this matter has been remanded once based on a finding that the first employer statement was conclusory and inadequate. To remand again does not facilitate the efficiency of the Settlement Program. More importantly, such a step does not follow the clear dictates of the Settlement Agreement, which requires either proof of an Eligible Employer or an Employer Statement which adequately establishes the causal nexus between the claimed losses and the spill. Regrettably, since none of these elements have been satisfied, this claim is due to be dismissed.