

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

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	\$0
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$399,646.98
	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.**
- No error.**

Comment (optional):

BP appeals the \$399,646.98 BEL pre-RTP award to Claimant ██████████ ("██████████"), because the Settlement Program did not reallocate annual revenue payments the ██████████ received each year in a single month from ██████████, one of the hospitals to which the ██████████ provides pathology services. Specifically, that hospital paid the Lab \$182,236.32 in September 2009; \$202,380.16 in December 2010; and \$189,054.93 in October 2011. The ██████████ asserts in its Final Proposal that these once-a-year payments by ██████████ had been its



practice of the last 15 years and were simply business as usual. The claim was processed under the AVM methodology after determined not to be sufficiently "matched," per Policy 495.. BP contends that "[t]he Settlement Program should have obtained the necessary information to record Claimant's revenue when earned throughout the year." It also asserts that "[1]f the revenue is distributed evenly across the 12 months of each year 2009 to 2011, Claimant fails Exhibit 4B's V-Shaped Revenue Pattern test." In furtherance of its argument that it was error for the Program to forego such "smoothing" of revenue, BP cites to three previous appeal panel decisions wherein it was held that revenue received by a lessor by way of a lump sum payment from the lessee designed to "buy out" the many future months of the remaining lease term, should be reevaluated on remand. As one of the panelists explained his rationale for remand, "[t]his claim presents a historical pattern of a regular revenue stream interrupted by an unforeseen event that aborted the continuation of this pattern and necessitated an alternative revenue solution." Thus the fact situation in that and the other two future rent buy out claims BP references was the exact opposite of that involving the annual payments by ██████████ to the ██████████ where the historical pattern was for fully foreseen annual payments to be made. BP also cites to a prior panel decision where a funeral home had a large revenue entry one month that was not revised, persuading the panelist to remand, but there the claimant's own accountants acknowledged that the June 2009 revenue spike in question was an accounting error and which required adjustment, but they never got around to making it . Such an "accounting error" mandates correction under Policy 495. Unlike an accounting error situation, and the mandatory expense adjustments under the AVM methodology, Policy 495 states that "[d]epending on the specifics of a given business, it may be appropriate to make adjustment to the claimant's financials as to the timing of the recognition of either revenues or expenses or both." (Policy 495, page 3.) The Program are entitled to exercise their "professional judgment to achieve sufficient matching as ordered by the Court." (Id, p. 4). The panelist cannot say the Settlement Program exceeded the discretion accorded it when it declined to reallocate the historically occurring annual payments from ██████████ . BP seeks remand, which the panelist does not find to be in order, or, failing that, submits a Final Proposal Compensation Amount of "\$0." The ██████████ submits as its Final Proposal the award amount of \$399,646.98, which is chosen under the controlling Baseball Process. Appeal denied.