Below are appeal panel decisions where the panelist(s) seem to indicate that hitting a trigger equates to a finding of being "insufficiently matched." Since 90% of all claims hit such a trigger, including accrual based claims, it follows that the vendors and appeal panelists are violating the 5th Circuit's holding that the "vast majority" of accrual P&Ls filed in support of BP claims are inherently matched. The vendors are rotely substituting the seven volatility screens for the required "exercise of professional judgement."

2015-346

comply with Policy 495 or the 5th Circuit's opinion. Claimant's financials triggered two criteria under Policy 495 and were therefore not "sufficiently matched." The claim then proceeded under the AVM methodology.As this panelist, and many others, have stated on several occasions, Policy 495 permits the Program to correct for obvious errors, but does not require a restatement of revenue before applying the appropriate methodology when a claimant's financial information is determined not to be sufficiently matched. BP's solution to this issue is to simply "back it up a month" and reduce Claimant's award by approximately $32,300. After a review of the entire record, I find no error on the part of the Claims Administrator and conclude that Claimant's final proposal is the appropriate result in this baseball appeal.

2014-853

BP appeals the BEL award of $25,648.38 (pre-RTP) to a Sunflower, Mississippi real estate agent. BP contends that the Claims Administrator failed to properly match revenue and expenses in accordance with Policy 495 and subsequently utilized the incorrect methodology (AVM vs. PSM).As has been addressed several times by the Appeals Panel, the Claims Administrator is required to evaluate a BEL claim by the seven criteria set forth in Policy 495 and, if the claimant's revenue and expenses are determined thereby to not be sufficiently matched,

1/14/15

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select and apply the appropriate methodology described in the policy. The Claims Administrator did exactly that. Claimant's P&Ls were determined to not be sufficiently matched (triggering 4 out of the 7 criteria) and the claim was therefore processed using the AVM methodology. BP contend this was error and that the Professional Services Methodology should have been used; however, none of the NAICS codes listed in Attachment A to Policy 495 for which the PSM was designed apply to real estate agents. In this baseball process, BP has failed to show why its final proposal of $0 is appropriate. Accordingly, the appeal is denied and the Claimant's final proposal is affirmed.

2014-859

Claimant is a Zone B, Tourism related gift shop located in Abbeville, Louisiana. The Vendor Accountants reviewed the claim and after Policy 495 triggered criteria requiring restatement of the Claimants' P/Ls, the claim was reduced approximately fifty per cent. BP appealed and requested remand for further investigation of differences between the sales tax returns and the P/Ls. A review of the accountants' notes reveals sufficient matching and investigation was completed by the vendors. Of interest, the Claimant agreed in its briefing to

reduce its award even further if BP would accept and drop its demand for remand. The offer went unaccepted so under the Baseball Rules, the Claimants' final proposal as awarded by the Administrator is affirmed.

2014-882

In response, Claimant argues that BP's analysis is faulty and that the Policy was, in fact, properly applied. Claimant is correct. The claims analyst's first task is to review the P&L statements for obvious errors; if any are found, they are corrected and then subjected to the seven criteria contained in Policy 495 in order to determine whether or not the recorded revenues and expenses are sufficiently matched. If not, the analyst then determines, based upon Claimant's business industry type, which methodology should be utilized for the purpose of achieving sufficient matching. Here, he selected the AVM Methodology.

2014-890

Claimant is a Zone C, Non-Tourism, Realtor doing business in Fort Myers, Florida. Policy 495 criteria were triggered and the vendor accountants applied the AVM methodology to restate the P/Ls. BP appeals asserting the now familiar refrain that the Administrator failed to accurately match revenues and expenses and did not comply with the BEL framework. The only specific complaint was the allegation that the Client Expense item was misclassified as fixed rather than variable. Even if this expense could have been designated as a cost of goods

sold and thus variable, it would not affect the award and under the Baseball Rules, the Claimant's award is closer to correct and must be affirmed. No reply memoranda was filed which required more examination by this Panelist. Claimant was represented by counsel and a response should have been sent. The award is affirmed in spite of the lack of diligence by her attorney.

2014-901

The record discloses that the Claims Administrator concluded, utilizing the criteria contained in Section I of Policy 495, that the financial data was not sufficiently matched and undertook to analyze the claim using the Annual Variable Margin Methodology set forth in Attachment B of said policy. BP asserts that methodology fails to solve the problem because it only redistributes expenses and not revenues. It claims that the Professional Services Methodology should have been utilized, instead.

In implementing Policy 495, the claims analyst's first task is to review the P&L statements for obvious errors; if any are found, they are corrected and then subjected to the seven criteria contained therein for the purpose of determining whether the recorded revenues and expenses are sufficiently matched. If not, the analyst then decides, based upon Claimant's business industry type, which methodology ought be utilized for the purpose of achieving sufficient matching.

2014-913

Claimant is a Zone C, Non-Tourism, real estate broker doing business in Englewood, Florida. Policy 495 criteria were triggered and the Vendor Accountants utilized the AVM methodology to restate the P/Ls and recommend an award to the Administrator. BP appealed arguing the Administrator should have used the Professional Services Methodology and the claim should be remanded for review of certain revenue spike months. BP points

to no specific expense items it contends are misclassified. BP uses its own methodology which assumes all property had remained on the books for four months prior to sale, to make a final proposal reducing the award. We are not plowing new ground here. Policy 495 was developed with input by the parties and approval of the Court. The PSM does not apply to realtors and only sufficient matching is required. This Panelist has so decided on prior appeals as have numerous other Panelists, that Policy 495 and the AVM methodology is the proper vehicle for deciding awards to realtors.

2014-915

Claimant is a Zone D, Non-Tourism related real estate agent located in Clearwater, Florida. The Vendor Accountants reviewed the claim and found Policy 495 criteria were triggered and calculated the claim using the AVM methodology. BP appeals asserting all the above described actions were in error. In this claim, BP does not point to any specific expense or revenue item as being misclassified. BP demands the Professional Services Methodology be used or the award be reduced to -0-. The Administrator states, the AVM methodology was used

due to dormancy, revenue and variable expense increases, inconsistent margin, and no direct relationship between the reported revenues and variable expenses in multiple months. In other words, the award was calculated as directed by the recent court decisions and under the correct methodology. The award is affirmed.

2014-920

The record reflects that the claims analyst reviewed Claimant's financial data in keeping with the requirements of Policy 495. After determining that two of the seven matching criteria were

triggered, the Annual Variable Margin Methodology was utilized to achieve the requisite matching of revenues to expenses. BP does not contest that analysis.

After de novo review, this panelist is convinced that the Claims Administrator committed no error. BP's allegations are founded upon conjecture and supposition. Its appeal cannot be sustained. Decision is hereby entered in favor of Claimant's Final Proposal.

2014-925

In implementing Policy 495, the claims analyst's first task is to review Claimant's P&L statements for obvious errors; if any are found, they are corrected and then subjected to the seven criteria contained therein for the purpose of determining whether the recorded revenues and expenses are sufficiently matched. If not, the analyst then decides, based upon Claimant's business industry type, which methodology ought be utilized for the purpose of achieving sufficient matching.

The record reflects that the claims analyst conducted a thorough review of the information contained in Claimant's P&L statements, sought and subsequently received, extensive additional information and data from Claimant's CPA and attorney. That triggered three of the seven matching criteria. The analyst then applied the AVM Methodology to achieve the requisite matching.

This panelist has concluded, following careful review, that the Claims Administrator committed no error in analyzing this claim. This BP appeal cannot be sustained. Decision is hereby entered in favor of Claimant's Final Proposal.

Decision: December 16, 2014

2014-926

Comment *(optional)*:

Claimant is a Zone A, Non-Tourism, real estate broker located in Destin, Florida. The Policy 495 criteria were triggered and the Vendor Accountants utilized the AVM methodology to recommend an award to the Administrator. BP appealed and objects to the award asserting a proper correction of the matching would likely have reduced the award. BP offers its own methodology of assuming the listings of the Claimant stayed on the market for four months and then matched the expenses to that revenue. That method does not appear in the

Settlement Agreement and will not be considered here. The parties were aware a large number of realtor claims were pending and BP could have attempted to negotiate this method or that the Professional Services Methodology be applied to those claims. It did not do so. The Claims Administrator has consistently utilized the AVM and this Appeal Panel has, on a majority of the appeals of those cases, affirmed its use. The award is affirmed.

2014-927

BP appeals a modest BEL award to a truck repair business in Zone D. Although application of Policy 495 was triggered and the AVM methodology applied, BP's sole complaint on appeal is that the Claims Administrator misclassified certain expenses. Specifically, BP takes issue with the classification of "Shop Supplies and Tools" as fixed rather than variable expenses. Echoing a familiar refrain, BP interprets Claimant's financials as showing that these expenses vary along with its revenue. These fluctuations are suggestive of variable consumable goods in the view of BP. BP seeks remand and submits a Final Proposal of $0.

2014-928

Claimant is a real estate agency in Zone C, Tampa , Florida. Its claim triggered Policy 495 criteria and the Vendor Accountants restated the P/Ls utilizing the AVM methodology. BP predictably appeals asserting non-compliance with the BEL framework and improper matching under Policy 495. BP demands the claim be reviewed under the Professional Services Methodology one suspects, because it is the most onerous to claimants in that it is more likely to minimize awards and often will result in a claimant not qualifying for any

award under Exhibit 4B. A review of the calculation notes reveal the Administrator made numerous inquiries on how the P/Ls were prepared and requested production of back up documentation. The Administrator properly investigated and made corrections to the Claimants financial submissions and reached the correct result. The award is affirmed.

2014-932

The claims analyst is directed first to review the subject P&L statements for any obvious errors. If any are found, they are corrected and then subjected to seven criteria in order to determine whether the recorded revenues and expenses are sufficiently matched. If not, the analyst is then instructed, based upon Claimant's business industry type, to determine which methodology should be utilized for the purpose of achieving sufficient matching.

2014-955

In view of Claimant's explanation, the analyst was hard pressed to conclude otherwise. The record reflects diligent investigation of other Claimant financial data which caused the Policy 495 matching criteria to be triggered. The analyst then utilized the Annual Variable Margin

2014-960

The Claimant is a Zone D, truck, motorcycle, boat and other vehicle retail sales company located in Madison, Mississippi. Policy 495 indicia of insufficient matching were triggered and the Vendor Accountants utilized the AVM methodology to reach an award recommendation to the Administrator. BP appeals alleging misclassification of Credit Card Fees as fixed when they are considered variable by Exhibit 4D and several Appeal Panel

2014-965

BP appeals the $90,902.21 (pre-RTP) BEL award to this Naples, Florida real estate agent. As it has in other appeals, BP contends that the Claims Administrator failed to apply Policy 495 correctly by failing to take into account the claimant's "lumpy revenue pattern." BP asserts that, because Claimant is paid at closing and accounts for his earnings on a cash basis, his revenue was not matched. BP also contends that the Professional Services Methodology should have been utilized, instead of the AVM used by the accounting vendors.Analysis of

the record reveals that four of the Policy 495 criteria were triggered, indicating that Claimant's income and expenses were not sufficiently matched. This is the purpose of the various methodologies developed by the Claims Administrator and approved by the parties and the court. The Claims Administrator appropriately utilized the AVM methodology as there is no basis in the policy to apply the Professional Services Methodology to the claim of a real estate agent. In addition, while BP offered a final proposal of $78,837, it provided no basis therefor nor an explanation of why the award to Claimant was $12,065.21 too high.The appeal is denied and the award to the claimant is affirmed.

2014-966

BP appeals a modest award ($26,998.28 pre-RTP) to a Metairie, Louisiana realtor in its BEL claim. In what is becoming thematic in appeals of this nature, BP argues that because Claimant's income is recorded at closing and accounted for on a cash basis, it is not matched and the Claims Administrator failed to apply Policy 495 and used the wrong methodology. BP requests the claim be remanded and, alternatively, offers $10,000 (pre-RTP) in its final proposal.BP argues that Policy 495 requires a redistribution of revenue before any marching

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methodology is applied, however BP is in error. Policy 495 permits the accounting vendor to correct errors such as duplicate entries, mistakes, etc. before then applying the most applicable methodology if any of the policy criteria are triggered. In this claim, two of the seven criteria were triggered, indicating the claimant's revenue was not sufficiently matched. The policy does not require exact matching, nor does it require cash based P&Ls be excluded. The vendor appropriately applied the AVM methodology as there is no basis in the policy to apply the Professional Services methodology to the claim of a realtor. Claimant maintains that BP's final proposal is arbitrary and without explanation, and this panelist agrees. Remand is not appropriate. Claimant's final proposal is the correct result.

2014-972

Here, the accounting vendor subjected the financials to the appropriate criteria which resulted in two of them being triggered. The AVM methodology was then utilized to achieve sufficient matching. It is axiomatic that perfect matching is not required. By definition, application of Policy 495 will result in sufficient matching.

2014-975

With regard to matching, the record indicates that the financials were subjected to the criteria of Policy 495 which resulted in two of them being triggered. The AVM methodology was then applied to achieve sufficient matching. There was nothing inappropriate or unusual about the vendor's matching analysis. BP's argument that its asserted errors collectively resulted in a violation of Policy 495 is rejected.

2014-976

The Claimant in this case is engaged in the business of selling durable medical equipment, principally upon referrals from orthopedic surgeons and podiatrists within the State of Alabama. Review of its financial data triggered two of the seven Policy 495 matching identification criteria and the Claims Administrator utilized the variable Annual Margin Methodology to arrive at a Pre-RTP award in the amount of $294,229.28. Apparently having no quarrel with application of Policy 495, BP instead focuses upon the Claims Administrator's classification of Claimant's line item Postage expense as fixed, instead of variable.

2014-979

Claimant is a Zone D shipping crate manufacturer located in Sarasota, Florida. The owner died during the pendency of the review of the claim and the company has been dissolved by the secretary of state. The widow expresses her frustration with the process and feels the company never recovered from the spill. All of this may be true but it cannot have a bearing on our appeal panel review of the award. Policy 495 criteria were triggered and the AVM methodology was used to restate the P/Ls. BP raised what have now been recognized as standard

2014-993

Claimant, a Gulfport, Mississippi lessor of commercial property, was awarded $227,280.85 pre-RTP in its BEL claim. BP appealed on the grounds that the Claims Administrator incorrectly applied Policy 495 and incorrectly utilized the AVM methodology. BP failed to argue the wrong methodology in its brief and it is therefore considered abandoned.At issue in this appeal is alleged errors in Claimant's P&Ls which BP contends were not "corrected." Claimant leases space to [redacted]. The P&Ls triggered two criteria under Policy 495,

indicating that Claimant's revenue was not sufficiently matched. The Settlement Program's accounting vendors identified entries related to the income from [redacted] which at times resulted in $0 income in some months and inflated income in others. Claimant explained that [redacted] occasionally paid at the end of the month for the following month's rent and, on occasion, paid late. These "errors" were corrected by the program vendors before the AVM methodology was applied.BP contends the same errors were made relating to [redacted] but were not corrected. In so doing, BP assumed that [redacted] rent was $3,000 per month, however that is mere speculation. The rent was actually $4,000 per month and the record reflects that [redacted] was in default from the beginning of the lease and Claimant accepted lesser payments in an attempt to work with them until [redacted] filed for bankruptcy in 2011.There is no basis for remand. BP's final proposal of $0 is not supported by the record, thus Claimant's final proposal is the correct result. The appeal is denied.

2014-996

Claimant is a chiropractor located in Zone C, Fort Myers, Florida. Policy 495 criteria were triggered and the Vendor Accountants restated the P/Ls using the AVM methodology. BP appeals three separate specific expense items as misclassified. Claimant's attorney responded with boiler plate accusations of bad faith by BP, which was of no assistance to the Panelist. When the Claimant does not address the specific issues raised by BP, two things occur: a suspicion that what is asserted is true and the Panelist must do a more extensive review of the

documents to determine the facts. Neither of these are good news for a Claimant. Fortunately for this Claimant, this Panelist did the review which his attorney should have done. The only big ticket expense item that could have resulted in a remand with directions to reduce the award or a selection of BP's final proposal is an assertion of misclassification of salary, wages and payroll taxes. After a review of all the accountant notes and calculations, it is apparent that no real issue on these matters exists. The accountants considered all payroll entries and merely relabeled them among taxes, wages to employees and professional, third party services. Owner compensation was removed. The Administrator spent 16 months examining, requesting additional information and documents and deciding on an award. That award is hereby affirmed.

2014-1004

Claimant, a wholesaler of diamonds, antiques and other items, is in Zone C, located in Largo, Florida. Policy 495 criteria were triggered and the Vendor Accountants restated the P/Ls and recommended an award to the Administrator. BP appeals asserting an unexplained spike in revenues in December and February and the AVM would not correct the matching issues resulting from these spikes. It is obvious to this Panel member that the BP attorneys are not the romantics the rest of the world has become. The Claimant explained these income

2014-1005

On the first issue, the record reflects that two of the seven factors stated in Policy 495 were triggered. The claim appropriately proceeded under the AVM methodology, and I find no error on the Claims Administrator's part.

2014-1008

Claimant is a Zone D realtor doing business in Tallahassee, Florida. Policy 495 criteria were triggered and the Vendor Accountants restated the P/Ls using the AVM methodology. BP appeals raising its boiler plate issues of non compliance with the BEL framework, Policy 495 and use of the wrong methodology. A review of the accountant notes and calculations convinces this Panelist that the Administrator has properly reviewed the Claimant's financials and requested additional information and source documents several times. The award is affirmed.

2014-1027

The record confirms Claimant's contention in that respect. The claims analyst determined, after collecting all the necessary supporting documentation and information, that three of the seven Policy 495 matching identification criteria were triggered. He then utilized the AVM Methodology in order to achieve the sufficient matching required by the courts. As noted in a number of prior Appeal Panel Decisions involving realtors, none of the business classification codes applied to the real estate business are assigned to the Professional Services Methodology. To begin with, the real estate business model is completely foreign to the Professional Services model. More importantly, Policy 495 was the product of months of extensive and intense negotiations by the parties and was approved by the court.

2014-1028

The record reflects a careful review of Claimant's financial data by the Claims Administrator. Certain of the transactions recorded therein raised questions which were satisfactorily answered by Claimant's CPA. Analysis of the data triggered two of the seven Policy 495 matching identification criteria and the analyst utilized the Annual Variable Margin Methodology to achieve the requisite matching of expense to revenue.

2014-1046

Claimant is a communication equipment business located in Mobile Alabama, which received an award of $186,536.95, pre-RTP, from the Settlement Program. BP appeals alleging that the Settlement Program erred by failing to adjust end of the year adjustments on Claimant's accounts receivable line-item in violation of the Settlement Agreement, the 5th Circuit's Order and Policy 495. The claim did hit triggers identified in Policy 495 which indicated the claim was mismatched. The Settlement Program then applied the AVM methodology in

2015-8

The record confirms Claimant's position with respect to each issue. After collecting all necessary supporting documentation and information, the claims analyst determined that three of the seven Policy 495 matching identification criteria were triggered. He then utilized the AVM Methodology in order to achieve the sufficient matching required by that policy and the courts. As noted in a number of prior Appeal Panel Decisions involving realtors, none of the business classification codes applied to the real estate business are assigned to the Professional Services Methodology. Application of the AVM Methodology was therefore entirely appropriate.

2015-9

A careful examination of the Eligibility Notice of October 22, 2014 discloses a thorough analysis, followed by the application of Policy 495 to this claim by the Claims Administrator. It identified this BEL claim as "not sufficiently matched" after application of the criteria set out in Section I of Policy 495, and went on to evaluate the claim under the Annual Variable Margin ("AVM") methodology. The resulting calculation by the Claims Administrator, detailed in the Eligibility Notice, yielded an award substantially less than the amount calculated by Claimant's accountants prior to adoption and implementation of Policy 495.

2015-21

The Claims Administrator awarded $261,299.71, pre-RTP to the Claimant, a commercial flooring business in Zone D. The accounting vendor filtered the Claimant's financials through the criteria of Policy 495 which resulted in two of them being triggered. The program accountant then applied the Annual Variable Margin methodology to restate the revenue and expenses. BP's appeal argues that large upward revenue spikes in Claimant's P&Ls indicate unresolved matching issues. Because some of these spikes occurred just outside the Compensation Period, BP argues that the award resulted from insufficiently matched data. BP seeks remand and submits a Final Proposal of $0.

The Accountant's Compensation Calculation Schedules reveal nothing unusual or untoward about the program accountant's analysis of this claim. The vendor appropriately found that Claimant's financial data was not sufficiently matched by virtue of the tests of Policy 495. BP does not suggest otherwise but only argues that revenue and expenses are not sufficiently matched. Further, BP offers no methodology that it believes would have resulted in the kind of matching it seeks nor how the award would be affected. Policy 495 is the correct methodology for correcting mismatches of revenue and expenses under the Settlement Agreement. There is nothing in the record to support BP's argument that some undefined additional approach should have been employed by the program accountant. Policy 495 was appropriately followed in this case in all respects. BP's appeal is denied.

2015-28

Examination of the record reveals that, after identifying certain issues raised by Claimant's financial data, the claims analyst sought and received additional information which revealed that three of the seven Policy 495 matching identification criteria were triggered. He then used the AVM Methodology for the purpose of achieving the sufficient matching required by that policy and the courts. This panelist finds no error in that analysis and application.

2015-35

The record reflects that the program account subjected the financials to the matching test of Policy 495 which resulted in two of them being triggered. The AVM methodology was then utilized to achieve sufficient matching. Although BP complains that the Professional Services methodology should have been utilized, there was nothing about the program accountant's analysis or selection of the AVM that was improper. BP's revenue attribution argument merely attempts reframe its prior arguments that Policy 495 requires revenue reallocation as a first step. That argument has been rejected by multiple appeal panelists under the Settlement Agreement and Policy 495. Here, BP's

2015-37

The record reveals that the claims analyst conducted a thorough review of Claimant's financial data and undertook to obtain additional information where necessary. Claimant's counsel and authorized representatives promptly responded with information the analyst deemed sufficient. Application of CAO Policy 495 resulted in triggering of one of the seven matching identification criteria, following which the analyst used the Annual Variable Margin Methodology to achieve the requisite matching of revenue to expense. BP does not challenge that analysis.

2015-62

issue with "reasonable specificity" and that no other issue should be considered.BP does not discuss the mischaracterization of expenses in its memoranda. Instead, BP argues that the Program failed to follow Policy 495 by not addressing revenue spikes in Claimant's income. BP offers $117,645 in its final proposal without explanation, except to state in a footnote that the figure was an approximation "based on an attempt to properly attribute Claimant's revenue to the months in which it was earned."The record shows that Claimant's financial information triggered one of the seven criteria in Policy 495 and that the claim proceeded under the AVM methodology. This is entirely proper. While this panelist agrees that BP failed to raise the Policy 495 issue in its Notice of Appeal, for the purposes of this appeal, the point is moot because I find neither error on the part of the Claims Administrator nor support for BP's final proposal. In this baseball appeal, Claimant's final proposal is the correct result and, therefore, the appeal is denied.

2015-71

Policy 495 was triggered in this case, and the Annual Variable Margin ("AVM") methodology appropriately applied. This formula adequately addresses BP's concerns over allocation and matching. Although BP advocates a "Step 1" adjustment process prior to the Policy 495 triggering analysis, this procedure is not required by the Policy.

2015-79

Claimant is a Zone C, Non-Tourism chiropractic/massage therapist office. Policy 495 was triggered and the AVM methodology was used to restate the P/Ls. BP appeals the resulting award asserting that as a medical provider it performs its services one month, but often has to wait months to be paid by third party providers. A review of the file reveals that BP is simply wrong. The majority of this Claimant's patients are self-payers that make payment when service is rendered. Approximately 70% of the patients' payments are made by

2015-80

Claimant is a Zone D, Non-Tourism medical practice located in Jemison, Alabama. Policy 495 criteria were triggered and the AVM methodology was utilized to restate the Claimant's P/Ls. BP appealed asserting its boilerplate of failure to comply with the BEL framework and the terms of Policy 495. Within its memoranda it finally makes specific complaints related to what it refers to as variations between the tax returns and the P/Ls that resulted in an inflated award. Much of the complaint concerns Medical Supplies which the Settlement

2015-92

Neither the Settlement Agreement nor Policy 495 require perfect matching of revenue and expenses. Application of the seven tests of Policy 495 is the proper methodology for analyzing whether there is a mismatch. When none of the criteria are triggered, the financials are presumed to be sufficiently matched. That is precisely the case here. I find nothing in the record that would support BP's invitation to add an additional step to the matching analysis of Policy 495. The Claims Administrator's award was correct and must be affirmed.

2015-93

BP's revenue attribution argument has been raised in various forms on numerous BEL appeals. Whether labeled as failure to restate P&Ls as a first step of Policy 495 or as the misattribution of revenue and expenses, this argument has been consistently rejected by appeal panels. Here, the program accountant submitted the Claimant's financials to the seven criteria of Policy 495 and three of them were triggered. The AVM methodology was then utilized to achieve sufficient matching of revenue and expenses. There was no error in the program's application of Policy 495 nor in the matching analysis.

2015-94

suggest that the AVM methodology should nevertheless have been applied. It is axiomatic that the seven criteria of Policy 495 are the appropriate tests for determining if revenue and expenses are sufficiently matched. Here, the Claimant's financials passed with flying colors and no triggers.

2015-95

The Claims Administrator awarded $70,130.99, pre-RTP to the owner of an [redacted] in Natchez, Mississippi. Policy 495 criteria were triggered and Claimant's financials were restated using the AVM methodology. On appeal, BP complains that the Administrator ignored a one time

2015-96

The Claims Administrator awarded $29,510.93 to a dentist in Zone D. Policy 495 criteria were triggered and the AVM methodology was applied. On appeal, BP asserts two familiar assignments of error. First, BP recites trite pablum from previous unsuccessful appeals claiming that

2015-201

Policy 495 directs the claims analyst first to review a Claimant's P&L statements for obvious errors and, if any are found, to make appropriate adjustments. Then they are subjected to the seven matching identification criteria detailed in that policy. If any are triggered, the claims analyst is directed to select a corrective methodology, dependent upon the Business Industry Code applicable to the Claimant, and utilize same to achieve the requisite matching.

2015-244

Examination of the record confirms Claimant's position. The claims analyst determined, after collecting all the necessary supporting documentation and information, that one of the seven Policy 495 matching identification criteria was triggered. He then utilized the AVM Methodology to achieve the sufficient matching required by that policy and by the courts. As

2015-260

Claimant argues that its P&L's were "sufficiently matched" and thus it was error for the Settlement Program to apply the AVM methodology to its Claim. This Panelist has reviewed the record and finds no error in the application of Policy 495. The P&L's appeared to have a matching issue. Thus, the "seven criteria" were applied to the Claim. The Claim triggered one or more of the criteria. As such, the Settlement Program was required to apply one of the methodologies. In this matter, the AVM methodology was the appropriate methodology to apply.

2015-304

The issues raised on this appeal are similar to arguments proffered by BP in scores of cases since the adoption of Policy 495. The body of appeal panel jurisprudence on these issues is robust with every appeal panelist having considered and rejected these same arguments in multiple cases. There are manifold sound reasons for the consistent unanimity of these decisions but only two require discussion. The framework of Policy 495 ***is*** the method of identifying and analyzing mismatches of revenue and expenses. Specifically, the seven criteria of Policy 495 are, by definition, the factors to be considered in determining whether a Claimant's financials are insufficiently matched. Further, with the exception of the specific NAICS codes enumerated in Attachment A, the Annual Variable Margin methodology ***is*** the default methodology for restating the vast majority of mismatched financials. Because Policy 495 has been adopted by the District Court, the Claims Administrator is bound to follow these procedures and when he does so, appeal panels are equally bound to uphold the resulting awards.

In this case, the Claims Administrator properly applied Policy 495 in all respects and there is no basis for remand. The award of compensation is affirmed.