

U.S. Department of  
Homeland Security

**United States  
Coast Guard**



Director  
United States Coast Guard  
National Pollution Funds Center

NPFC CA MS 7100  
US COAST GUARD  
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5890  
11/28/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
Number: 7011 1570 0001 4802 6319

Randolph Jones  
[REDACTED]

RE: Claim Number: N10036-1355

Dear Mr. Jones:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-1355 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Per your request, the NPFC is attaching your original photographs that were provided.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[REDACTED]

Thomas S. Morrison  
Chief, Claims Adjudication Division  
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

## CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-1355
Claimant	: Randolph Jones
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$92,000.00

### **FACTS:**

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

### **CLAIM AND CLAIMANT:**

On 31 August 2011, Randolph Jones Jr. (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$80,000 for loss of profits and impairment of earnings capacity and \$12,000.00 for natural resources to the National Pollution Funds Center (NPFC) alleging damages resulting from the Deepwater Horizon oil spill. The total amount of the claim presented to the NPFC is \$92,000.00.<sup>1</sup>

The Claimant owned a business named One Stop Shop in Mobile, Alabama, from 2007 through 2010.<sup>2</sup> The business was a convenience store and provided seafood, barbeque and other meals for sale from the kitchen.<sup>3</sup> The Claimant's records indicated that he went out of business in September 2010, allegedly due to higher seafood costs and the Claimant's inability to catch his own seafood to sell in the store, all as a result of the oil spill.<sup>4</sup> He subsequently started a new business in a new location.

The Claimant seeks lost profits and impairment of earnings capacity in the amount of \$80,000.00 and natural resources damages in the amount of \$12,000.00.

Prior to presenting his claim to the NPFC, Claimant filed an Emergency Advance Payment (EAP) with the GCCF on 14 October 2010 for lost wages and earnings in the amount of \$75,000.00.<sup>5</sup> He was assigned Claimant ID #3182568 and claim #237937. This claim was denied on 10 December 2010.<sup>6</sup> Additionally, Claimant filed an Interim claim (ICQ12011) with the GCCF on 30 March 2011, with GCCF#9339065.<sup>7</sup> The GCCF paid the Claimant \$28,716.09

<sup>1</sup> Optional OSLTF dated 23 August 2011

<sup>2</sup> Letter to the GCCF explaining the claim dated 20 March 2011

<sup>3</sup> Letter to the GCCF explaining the claim dated 20 March 2011

<sup>4</sup> Letter to the GCCF explaining the claim dated 20 March 2011

<sup>5</sup> Report from the GCCF dated 21 September 2011.

<sup>6</sup> GCCF Denial Letter dated 10 December 2010.

<sup>7</sup> Report from the GCCF dated 21 September 2011.

for his ICQ12011 claim and the Claimant accepted a Final Offer for \$28,716.09 and signed a release and covenant not to sue.<sup>8</sup>

**REQUEST FOR RECONSIDERATION:**

The Claimant requested reconsideration which was received by the NPFC on November 23, 2011 via Priority Mail. The Claimant submitted a 5-page handwritten letter requesting reconsideration and that described his closed and new businesses, a copy of a one-page menu and 15 color photos of his business locations pre and post oil spill.

**NPFC Determination on Reconsideration**

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity and that the loss was due to the destruction or injury to real or personal property or natural resources. The NPFC considered all the documentation submitted by the Claimant. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d).

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration. The Claimant argues that his alleged losses resulted from closing his business in Mobile, AL and opening a smaller business in a different location. He states that this relocation caused him to sell off equipment that it took him a long time to acquire and reestablish his name with new customers in a new location, which he asserts he is still feeling the effects after the oil spill.

Notwithstanding that the Claimant alleges that he has suffered a loss of profits and is seeking further compensation from the Oil Spill Liability Trust Fund (OSLTF), he accepted an interim payment from the RP/GCCF in the amount of \$28,716.09 and accepted a final payment in the amount of \$28,716.09 from the RP/GCCF, totaling \$57,432.18 in compensation for his alleged loss of profits resulting from the incident. In exchange for the final payment from the RP/GCCF Claimant executed a Release and Covenant Not to Sue. Under the terms of the Release and Covenant Not to Sue the payment was for any and all losses resulting from the oil spill and he released all his rights to the RP/GCCF. Therefore, the Claimant has been fully compensated for all losses resulting from the oil spill and is not eligible for compensation from the OSLTF.

This claim is denied upon reconsideration.

Claim Supervisor 

Date of Supervisor's review: 11/28/11

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

<sup>8</sup> GCCF Final Payment offer dated 07 June 2011.