

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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Arlington, VA 20598-7100  
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CERTIFIED MAIL-RETURN RECEIPT REQUESTED  
Number: 7011 1570 0001 4802 6999

5890/DWHZ  
28 October 2011

Louis Edward Taylor  
[REDACTED]

Re: Claim Number: N10036-1482

Dear Mr. Taylor:

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 your claim number N10036-1482 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. If, however you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-1482.

Mail reconsideration requests to:

Director (ca)  
NPFC CA MS 7100  
US COAST GUARD  
4200 Wilson Blvd, Suite 1000  
Arlington, VA 20598-7100

Sincerely,

Claims Adjudication Division  
National Pollution Funds Center  
U.S. Coast Guard

Enclosures: (1) Claim Summary/Determination Form

## CLAIM SUMMARY/DETERMINATION FORM

Claim Number	N10036-1482
Claimant	Louis Edward Taylor
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Impairment of Earnings Capacity
Amount Requested	\$24,000.00

### ***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 certain individual and business claims on behalf of BP.

### ***CLAIM AND CLAIMANT***

On 19 September 2011, Louis Taylor (the Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking \$24,000.00 in loss of profits and impairment of earnings capacity that allegedly resulted from the Deepwater Horizon oil spill.

The Claimant is a lead foreman for D & L Electric Inc.,<sup>1</sup> located in Panama City, Florida.<sup>2</sup> The Claimant earns \$950.00 per week as salary in cash.<sup>3</sup> The Claimant asserted that, due to the Deepwater Horizon oil spill, tourists stopped coming to the area and reduced the demand for work on rental condos, which was D & L Electric's primary focus.<sup>4</sup> Because of D & L Electric's reduction in business, the Claimant was laid off from his job around 15 May 2010 and was not rehired until sometime in November of 2010.<sup>5</sup>

### ***APPLICABLE LAW***

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. §2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

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<sup>1</sup> Letter from D & L Electric Inc. to the GCCF, dated 18 November 2010.

<sup>2</sup> Email from the Claimant to the GCCF, dated 14 April 2011.

<sup>3</sup> Letter from D & L Electric Inc. to the GCCF, dated 18 November 2010.

<sup>4</sup> Optional OSLTF Claim Form, dated 04 October 2011.

<sup>5</sup> Letter from D & L Electric Inc. to the GCCF, dated 18 November 2010.

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that any loss of income was due to injury, destruction or loss of real or personal property or of a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 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 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for:

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

## ***DETERMINATION OF LOSS***

### **The Claimant's Submission to the OSLTF**

In support of the claim, the Claimant presented the following documentation to the NPFC:

- Optional OSLTF Claim Form, dated 04 October 2011;
- Letter from the GCCF indicating submission of Interim Payment or Final Payment claim, dated 29 January 2011;
- Denial letter from the GCCF for Emergency Advanced Payment claim, dated 6 December 2010;
- Screenshot of the Claimant's GCCF "Claimant Status";
- GCCF Deficiency Letter On interim Payment/Final Payment Claim, dated 26 March 2011;
- Email of claim explanation from the Claimant to the GCCF, dated 23 January 2011;
- Email from the Claimant to the GCCF, dated 6 February 2011;
- Email from the Claimant to the GCCF, dated 13 February 2011;
- Email from the Claimant to the GCCF, dated 14 April 2011;
- Email from the Claimant to the GCCF, dated 11 March 2011;
- Email from the Claimant to the GCCF, dated 18 May 2011;
- Letter from D & L Electric Inc. to the GCCF, dated 18 November 2010;
- Letter from D & L Electric Inc. to the GCCF, dated 11 February 2011;

- Bank Statements for the period 1 February 2010 through 29 July 2010; and
- GCCF Claim Form.

Prior to presenting this Claim to the NPFC, the Claimant filed an Emergency Advanced Payment (EAP) claim with the GCCF for loss of earnings. The Claimant was assigned Claimant ID # 3427677 and Claim # 507685.<sup>6</sup> This claim was denied by the GCCF on 6 December 2010.<sup>7</sup> The Claimant also filed Interim Claim Quarter 1 (ICQ12011) and Full Review Final (FRF) claims with the GCCF. The Claimant was assigned Claim # 9226281 (ICQ12011) and Claim # 9296796 (FRF).<sup>8</sup> Both of these claims are still under review with the GCCF.

Based upon the evidence provided by the Claimant, it appears that the subject matter of the Claimant's GCCF claim is the same as the subject matter of his claim before the NPFC, i.e., that Claimant was temporarily laid off from his job at D & L Electrical due to the Deepwater Horizon oil spill. The NPFC deems the Claimant's GCCF claim to be properly presented to the RP and properly presented to the NPFC. Accordingly, this Claim Summary Determination for NPFC claim N10036-1482 considers and addresses the earnings claimed in the claim presented to the responsible party, specifically; GCCF Claim #'s 507685 (EAP), 9226281 (ICQ12011) and 9296796 (FRF).

### **NPFC Determination**

The claim is denied. Under 33 C.F.R. § 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. The NPFC considered all documentation presented by the Claimant.

The Claimant provided two letters from his alleged employer<sup>9</sup>, D & L Electric Inc., in support of his claim to the NPFC.<sup>10</sup> A search of the records at the Florida Department of State Division of Corporations<sup>11</sup> indicated there is no company by the name of D & L Electric Inc. that is registered with the state, nor any company with an Officer/Registered Agent under the name Brennon Davis. The corporate letterhead on both letters indicated that the company is state certified for electrical work; however, a search of the records at the Florida Department of Business & Professional Regulation<sup>12</sup> indicated there is no company certified for electrical work by the name D & L Electric Inc., nor are either the Claimant or Brennon Davis listed as being individually certified for electrical work. No trace of this company can be found elsewhere on the internet either. Notably, the corporate letterhead on both letters does not include an address. When asked by the GCCF for an exact physical location of the business, the Claimant was unable to provide a specific address.<sup>13</sup>

The phone number in the corporate letterhead also failed to provide any connection to D & L Electric Inc..<sup>14</sup> In an email to the GCCF on 14 April 2011, the Claimant indicated that there was a new phone number for the company.<sup>15</sup> The NPFC called this number as well on 25 October 2011; the individual who

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<sup>6</sup> GCCF Claimant Status Page.

<sup>7</sup> Denial letter from the GCCF for Emergency Advanced Payment claim, dated 6 December 2010.

<sup>8</sup> GCCF Claimant Status Page.

<sup>9</sup> Letter from D & L Electric Inc. to the GCCF, dated 18 November 2010; Letter from D & L Electric Inc. to the GCCF, dated 11 February 2011.

<sup>10</sup> Both letters were signed by the alleged owner, Brennon A. Davis.

<sup>11</sup> <http://www.sunbiz.org/ficiown.html>

<sup>12</sup> <https://www.myfloridalicense.com/wl11.asp?mode=0&SID=>

<sup>13</sup> Email from the Claimant to the GCCF, dated 14 April 2011.

<sup>14</sup> The NPFC attempted contact at this number, (850) 252-2867, numerous times. The number goes straight to voicemail for "Chris" and the message inbox is full; thus, the NPFC was unable to leave a message.

<sup>15</sup> Email from the Claimant to the GCCF, dated 14 April 2011.

answered the call informed the NPFC that the phone number was not for D & L Electric, that he had never worked for D & L Electric, and that he had never heard of D & L Electric.<sup>16</sup>

The Claimant also provided bank statements in the submission of his claim to the NPFC. The Claimant blacked out numerous items on the statements, including “Account Owner(s).” However, through a visual inspection of the statements, the NPFC was able to decipher that the Account Owner on the bank statements was “Deidra Howard.”<sup>17</sup> An internet search of the name “Deidra Howard,” indicated that there is a woman by this name that lives at the same address as the Claimant – 1836 East Ave, Panama City.<sup>18</sup>

Under 33 C.F.R. 136.9, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim.

Claimant’s request for \$24,000.00 is hereby denied because the evidence presented by the Claimant vice the information gathered by the NPFC as outlined above clearly demonstrates evidence of a material misrepresentation of fact and as such, this claim is denied.

Claim Supervisor: *NPFC Claims Adjudication Division*

Date of Supervisor’s Review: *10/28/11*

Supervisor’s Action: *Denial approved*

Supervisor’s Comments:

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<sup>16</sup> PHONECALL from the NPFC to (850) 357-2647 on 25 October 2011.

<sup>17</sup> Bank Statements for the period 1 February 2010 through 29 July 2010.

<sup>18</sup> <http://baymugshots.com/2011/09/07/deidra-leann-howard-2/>