

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  
Staff Symbol: (CA)  
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CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Number: 7011 1570 0001 4802 6500

5890/DWHZ

11 January 2012

Swan River Seafood Restaurant and Market

Attn: [REDACTED]

3741 Tamiami Trail North

Naples, Florida 34103

Re: Claim Number: N10036-1558

Dear [REDACTED]:

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 N10036-1558 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 N10036-1558.

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  
(2) Evidence Provided by the Claimant in Support of Claim N10036-1558

## CLAIM SUMMARY/DETERMINATION FORM

Claim Number N10036-1558  
Claimant Swan River Seafood Restaurant and Market  
Type of Claimant Business  
Type of Claim Loss of Profits and Impairment of Earnings Capacity  
Amount Requested \$80,666.10

### ***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 14 November 2011, Joseph McLaughlin, on behalf of Swan River Seafood Restaurant and Market (collectively, the Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking \$80,666.10 in loss of profits and impairment of earnings capacity that allegedly resulted from the Deepwater Horizon oil spill.

The Claimant operates a seafood restaurant and market in Naples, Florida.<sup>1</sup> The Claimant asserts that due to the Deepwater Horizon oil spill, the restaurant and market experienced a combination of: an increase in the price of Gulf of Mexico seafood, an unavailability of Gulf of Mexico seafood, loss of customers as evidenced by reduced foot traffic, loss of customers as a result of reduced tourism and overall decreased sales due to reduced customer confidence regarding seafood from the Gulf of Mexico.<sup>2</sup> As a result of these issues the Claimant asserts he suffered reduced income in 2010 and 2011.<sup>3</sup>

The Claimant provided the following explanation regarding the calculation of his sum certain of \$80,666.10: the Claimant listed the increase of shrimp costs year over year at \$60,000.00, added the costs related to the unavailability of oysters from June 2010-November 2010 of \$2,604.00, added the costs of discounted lobster dinners of \$12,915.00, added the costs of including a complimentary gourmet salad with dinner specials at \$3,305.50, added the costs of free appetizers at \$875.00 and added the costs of advertising at \$966.60 for a total of \$80,666.10.<sup>4</sup> The Claimant then adopted this number as his sum certain.<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).

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<sup>1</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>2</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>3</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>4</sup> Document titled 'Itemized Damage Totals'.

<sup>5</sup> Optional OSLTF Claim Form received 14 November 2011.

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).

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 his claim, the Claimant submitted all of the documentation listed in enclosure (2).

Prior to presenting his claim to the NPFC, the Claimant filed an Interim Payment Claim Quarter III 2011 (ICQ32011) with the GCCF for loss of profits and impairment of earnings capacity on 19 July 2011 in the amount of \$80,201.10.<sup>6</sup> The Claimant was assigned Claimant ID # 3531987 and Claim ID # 9420225. The GCCF has sent the Claimant a Determination Letter that includes a Final Payment Offer on 24 October 2011.<sup>7</sup> As of the writing of this determination, the Claimant has not accepted the final offer and it remains pending.<sup>8</sup>

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<sup>6</sup> Report from the GCCF dated 05 December 2011.

<sup>7</sup> GCCF Re-Review Determination Letter on Final Payment Claim dated 24 October 2011.

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

Based upon the evidence provided by the Claimant, it appears that the subject matter for the GCCF claim is the same as the subject matter of his claim before the NPFC, i.e., that due to the Deepwater Horizon oil spill, the Claimant experienced a combination of reduced sales and an increased price of goods that resulted in the suppression of business income. 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 N10036-1558 considers and addresses the earnings claimed in the Claimant's claim presented to the responsible party up to \$80,201.10,<sup>9</sup> specifically; GCCF Claim # 9420225 (ICQ32011).

### **NPFC Determination**

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.

Under 33 C.F.R. § 136.103(a), all claims for removal costs or damages must be presented first to the responsible party (RP). The Claimant presented an ICQ32011 for loss of profits and impairment of earnings capacity to the GCCF on 19 July 2011 with a claimed amount of \$80,201.10.<sup>10</sup> The Claimant then presented a claim for loss of profits and impairment of earnings capacity in the amount of \$80,666.10 to the NPFC.<sup>11</sup> Any claimed amount of damages exceeding \$80,201.10 was not properly presented to the RP/GCCF pursuant to 33 C.F.R. § 136.103(a) and is therefore denied.

Regarding the remaining claimed amount of \$80,666.10, the Claimant asserts that due to the Deepwater Horizon oil spill, his restaurant and market experienced a combination of: an increase in the price of Gulf of Mexico seafood, an unavailability of Gulf of Mexico seafood, loss of customers as evidenced by reduced foot traffic in the restaurant, loss of customers due to a drop in tourism and overall decreased sales due to reduced customer confidence regarding seafood from the Gulf of Mexico.<sup>12</sup> The NPFC addresses each of these assertions in the paragraphs below. In sum, however, the remainder of the claim is denied because the Claimant fails to prove either that he incurred an alleged loss in the amount claimed or that his alleged loss is due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Further, the evidence presented indicates that even if the Claimant had sustained a loss due to the Deepwater Horizon oil spill, he was able to successfully mitigate his losses through his business actions.

Regarding the increase in price of Gulf of Mexico Seafood, the Claimant asserts that the wholesale price of shrimp purchased from Cox's Wholesale Seafood increased from 2009-2010.<sup>13</sup> The Claimant asserts that the increased price of wholesale shrimp suppressed the profit margin of the Claimant's restaurant and market, ultimately resulting in reduced profits from 2010-2011.<sup>14</sup> Although the price of shrimp increased from approximately \$7.75<sup>15</sup> per pound in 2009 to \$9.19<sup>16</sup> per pound in 2010, the menu price of shrimp at the Claimant's restaurant and market in 2010 remained at its 2009 levels.<sup>17</sup> Although the Claimant had the opportunity and ability to raise the price of shrimp sold to reflect the increased wholesale costs, the Claimant declined to do so. Accordingly, the Claimant made an independent business decision to absorb the increased costs of shrimp from the Gulf of Mexico in lieu of passing the price increase onto the

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<sup>9</sup> See discussion below in NPFC Determination regarding the claimant amount of damages presented to the NPFC.

<sup>10</sup> Report from the GCCF dated 05 December 2011.

<sup>11</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>12</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>13</sup> Optional OSLTF Claim Form received 14 November 2011, Letter from the Claimant to the NPFC dated 08 November 2011.

<sup>14</sup> Letter from the Claimant to the NPFC dated 08 November 2011, Letter from the Claimant to the GCCF dated 09 July 2011.

<sup>15</sup> PHONECON between the NPFC and Cox Wholesale Seafood dated 22 November 2011.

<sup>16</sup> PHONECON between the NPFC and Cox Wholesale Seafood dated 22 November 2011.

<sup>17</sup> PHONECON between the NPFC and the Claimant dated 30 November 2011.

customers of the Claimant's restaurant and market. Thus, the Claimant's own independent business decision was responsible for potential difference in profit margin for shrimp sales from 2009-2010.

Regarding the unavailability of Gulf of Mexico seafood,<sup>18</sup> specifically oysters,<sup>19</sup> the NPFC was informed that AmeriPure, the company the Claimant obtained its Gulf of Mexico oysters from, did not sell oysters from June 2010-November 2010.<sup>20</sup> The Claimant, however, was not precluded from purchasing oysters from other wholesalers or distributors. Indeed, the NPFC was informed that the reason AmeriPure ceased production of oysters was due to a business decision to shut down its processing plant because the low volume would make the business unprofitable.<sup>21</sup> The evidence presented indicates that the Claimant made an independent business decision not to obtain oysters through other distribution channels after AmeriPure stopped selling oysters in of June 2010.

Regarding the Claimant's claim for damages resulting from discounting lobster dinners,<sup>22</sup> complimentary gourmet salads<sup>23</sup> and appetizers<sup>24</sup> as well as the costs of advertising,<sup>25</sup> assuming for the sake of argument that these measures were necessary, the NPFC views these actions as measures in mitigation, which ultimately proved successful. As discussed below, the Claimant succeeded in increasing both the number of patrons and the amount of sales made from 2009-2010.

Regarding the loss of customers as described by the Claimant as a 'loss of foot traffic',<sup>26</sup> the Claimant fails to prove that the restaurant suffered from a decrease in customer traffic. Rather, based on the information provided by the Claimant, the total number of restaurant patrons increased from 2009 to 2010. For example, in the Claimant's provided Sales Report from 01 May 2009-31 May 2009 the number of guests visiting the restaurant totaled 5,474; with a split of 2,327 for lunch and 3,147 for dinner.<sup>27</sup> During the same period in 2010, a period that should have been affected by the oil spill, the restaurant totaled 5,703 patrons; with a split of 2,134 for lunch and 3,569 for dinner.<sup>28</sup> Although there were 193 fewer patrons visiting the restaurant for lunch in May 2010 than May 2009, there were 422 more patrons visiting the restaurant for dinner in May 2010 than May 2009.<sup>29</sup> Further, the total number of patrons visiting the restaurant in May 2010 compared to May 2009 increased by 229.<sup>30</sup> Thus, based on the information provided by the Claimant, the Claimant fails to prove that the Deepwater Horizon oil spill negatively impacted the total number of patrons during the affected time period.

Even if the Claimant could prove that the restaurant experienced a lower number of patrons in 2010 compared to 2009, the Claimant fails to prove that he suffered a financial loss. Indeed, the Claimant's submitted financial documentation shows that in the pre-oil spill year of 2009 the Claimant listed \$1,513,005.54 in sales categorized under 'Food and Restaurant'.<sup>31</sup> In 2010, the year of the purported loss due to the Deepwater Horizon oil spill, the Claimant listed \$1,702,302.42 in sales under the same

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<sup>18</sup> In a phone conversation with Cox's Wholesale Seafood on 22 November 2011 the NPFC was informed that although the price of shrimp increased in 2010, the Claimant was not precluded from purchasing shrimp. Accordingly, the Claimant's assertion that certain seafood items from the Gulf of Mexico were unavailable did not apply to shrimp.

<sup>19</sup> In a phone conversation with AmeriPure on 22 November 2011, the NPFC was informed that beginning in June 2010 and lasting until November 2010, AmeriPure ceased processing oysters for sale. Accordingly, without any additional assertion regarding unavailability from specific seafood from the Gulf of Mexico, the Claimant's assertion regarding unavailability will be discussed regarding oysters.

<sup>20</sup> PHONECON between the NPFC and AmeriPure Oysters dated 22 November 2011.

<sup>21</sup> PHONECON between the NPFC and AmeriPure Oysters dated 22 November 2011.

<sup>22</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>23</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>24</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>25</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>26</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>27</sup> Document titled 'Sales Report' for period 01 May 2010-31 May 2009.

<sup>28</sup> Document titled 'Sales Report' for period 01 May 2010-31 May 2010.

<sup>29</sup> Documents titled 'Sales Report' for periods 01 May 2009-31 May 2009, 01 May 2010-31 May 2010.

<sup>30</sup> Documents titled 'Sales Report' for periods 01 May 2009-31 May 2009, 01 May 2010-31 May 2010.

<sup>31</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2009-31 December 2009.

category.<sup>32</sup> Furthermore, comparing the pre-oil spill and post-oil spill periods of January-April and May-December for the years 2008, 2009 and 2010 shows the same trend of increasing gross profit each year. From January-April in 2008, 2009 and 2010, the Claimant's restaurant experienced yearly increases in average gross profits, with figures of \$149,624.00, \$189,938.00 and \$214,758.00 respectively.<sup>33</sup> Further, from 2008-2010, in the post-spill period of May-December, the Claimant's restaurant experienced lower revenues for those eight months while still increasing the gross profit year over year with figures of \$68,808.00, \$94,156.00 and \$105,408.00 respectively.<sup>34</sup> Thus, although the Claimant's restaurant experienced lower average gross profits from May 2010-December 2010 compared to January 2010-April 2010, this matches the larger three year pattern of both reduced gross profits from May-December as well as the increased year over year sales during the same period. Accordingly, the Claimant fails to prove that the Deepwater Horizon oil spill negatively affected the Claimant's restaurant sales.

Additionally, the sales from the Claimant's seafood market<sup>35</sup> fail to reflect an effect due to the Deepwater Horizon oil spill. In the pre-spill period of January-April from 2008-2010, the Claimant's market averaged monthly sales of \$171,021.00, \$153,011.00 and \$152,889 respectively.<sup>36</sup> Accordingly, the Claimant's seafood market sales were on a downward trend beginning in 2008, with the largest year over year decrease occurring in the 2008-2009 period.<sup>37</sup> Further, in the post-spill affected period of May-December from 2008-2010, the Claimant's seafood market averaged monthly sales of \$75,973.00, \$63,429.00 and \$68,278.00 respectively.<sup>38</sup> Accordingly, the Claimant's seafood market sales, after declining from 2008-2009, rebounded and increased from 2009-2010.<sup>39</sup> Thus, the Claimant fails to prove that the Deepwater Horizon oil spill negatively affected the Claimant's seafood market sales. Therefore, the Claimant fails to prove that his restaurant or seafood market experienced a loss due to the Deepwater Horizon oil spill.

Regarding the Claimant's assertion that the restaurant experienced decreased sales due to reduced tourism,<sup>40</sup> the Claimant fails to provide evidence that the Deepwater Horizon oil spill negatively impacted tourism in the Naples, Florida region. Nevertheless, the NPFC obtained statistics provided by the official visitor website for Collier County,<sup>41</sup> which includes Naples, that do not support the assertion that tourism substantially decreased in the region after the Deepwater Horizon oil spill. In the post-oil spill period in May 2010 and June 2010, the tourism numbers in fact increased from the same period in 2009 by 3.9%<sup>42</sup> and 2.7%<sup>43</sup> respectively. For the months of July 2010 through September 2010, the county experienced a decrease of 2.4%.<sup>44</sup> The Claimant, however, experienced an increase in food and restaurant sales from

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<sup>32</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2010-31 December 2010.

<sup>33</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2008-31 December 2008, 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

<sup>34</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2008-31 December 2008, 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

<sup>35</sup> In a phone conversation with the NPFC on 30 November 2011, the NPFC was informed that the documentation the Claimant submitted listing 'Sales-Retail/Non-Taxable' reflects the sales from the Claimant's seafood market.

<sup>36</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2008-31 December 2008, 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

<sup>37</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2008-31 December 2008, 31 January 2009-31 December 2009.

<sup>38</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

<sup>39</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

<sup>40</sup> Optional OSLTF Claim Form received 14 November 2011.

<sup>41</sup> [http://www.paradisecoast.com/media\\_center/research.php](http://www.paradisecoast.com/media_center/research.php) (last accessed 05 December 2011).

<sup>42</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1277149233\\_May%20Collier%20May%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1277149233_May%20Collier%20May%202010.pdf) (last accessed 05 December 2011).

<sup>43</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1280235197\\_Collier%20June%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1280235197_Collier%20June%202010.pdf) (last accessed 05 December 2011).

<sup>44</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1288812067\\_CollierSep2010-REV.pdf](http://www.paradisecoast.com/media_center/research_files/1288812067_CollierSep2010-REV.pdf) (last accessed 05 December 2011).

July 2010-September 2010 compared to the same period in 2009. The Claimant totaled \$211,692.43<sup>45</sup> in food and restaurant sales from July 2010-September 2010, an increase over the \$198,038.20<sup>46</sup> in food and restaurant sales from the same period in 2009. Furthermore, after September 2010, the tourism numbers rebounded strongly in October and November, with increases of 11%<sup>47</sup> and 4.7%<sup>48</sup> respectively. Although visitation in December 2010 declined by 2.2%<sup>49</sup> compared to December 2009, importantly the Deepwater Horizon oil spill was not listed as a reason for the decline.<sup>50</sup> Indeed, the decline in December 2010's visitation profile is attributed to weather and related flight disruptions.<sup>51</sup> Overall, despite the Deepwater Horizon oil spill, tourism in Naples in 2010 increased by 3.3% over 2009.<sup>52</sup> Thus, the Claimant fails to prove that the Deepwater Horizon oil spill resulted in decreased sales at the restaurant and seafood market due to a reduction in tourism in Naples, Florida.

Regarding the Claimant's assertion that the restaurant suffered reduced sales due to decreased customer confidence, the Claimant fails to provide evidence to support his assertion. As discussed above, the Claimant's own submissions regarding the number of patrons visiting the restaurant in May 2010 increased from May 2009.<sup>53</sup> Further, as discussed above, the Claimant's submitted financial information shows an increase in food and restaurant sales in 2010 compared to 2009.<sup>54</sup> Accordingly, the Claimant fails to prove that the restaurant suffered decreased sales due to a lack of consumer confidence as a result of the Deepwater Horizon oil spill.

This claim is denied because the Claimant failed to meet his burden to demonstrate (1) that there was an alleged loss in the amount claimed, and (2) that the alleged loss is due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: *NPFC Claims Adjudication Division*

Date of Review: *1/11/12*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

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<sup>45</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2010-31 December 2010.

<sup>46</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2009-31 December 2009.

<sup>47</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1291397085\\_Collier%20October%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1291397085_Collier%20October%202010.pdf) (last accessed 05 December 2011).

<sup>48</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1292861030\\_Collier%20November%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1292861030_Collier%20November%202010.pdf) (last accessed 05 December 2011).

<sup>49</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1295534029\\_Collier%20December%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1295534029_Collier%20December%202010.pdf) (last accessed 05 December 2011).

<sup>50</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1295534029\\_Collier%20December%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1295534029_Collier%20December%202010.pdf) (last accessed 05 December 2011).

<sup>51</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1295534029\\_Collier%20December%202010.pdf](http://www.paradisecoast.com/media_center/research_files/1295534029_Collier%20December%202010.pdf) (last accessed 05 December 2011).

<sup>52</sup> [http://www.paradisecoast.com/media\\_center/research\\_files/1305311135\\_TOURISM%20IMPACT%20FACTS%20010.doc](http://www.paradisecoast.com/media_center/research_files/1305311135_TOURISM%20IMPACT%20FACTS%20010.doc) (last accessed 05 December 2011).

<sup>53</sup> Documents titled 'Sales Report' for periods 01 May 2009-31 May 2009, 01 May 2010-31 May 2010.

<sup>54</sup> Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2009-31 December 2009, 31 January 2010-31 December 2010.

## Enclosure (2)

### **Evidence Presented by the Claimant in Support of Claim N10036-1558**

- Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form received 14 November 2011;
- Letter from the Claimant to the NPFC dated 08 November 2011;
- Document titled 'Responsible Party Communications';
- Document titled 'Gulf Coast Claims Facility Protocol' dated 08 February 2011;
- Letter from the Claimant to the GCCF dated 09 July 2011;
- Document titled 'Permits, Registrations & Licenses';
- Document titled 'Itemized Damage Totals';
- Spreadsheet titled 'Cox's Wholesale Seafood-Swan River Shrimp Purveyor';
- Invoices from Cox's Wholesale Seafood for dates 21 April 2010 and 21 September 2010;
- Document titled '[The Claimant] Vendor Quick Report' for period January 2011-June 2011;
- Document titled '[The Claimant] Vendor Quick Report' for period January 2010-December 2010;
- Document titled '[The Claimant] Vendor Quick Report' for period January 2009-December 2009;
- Document titled '[The Claimant] Vendor Quick Report' for period January 2008-December 2008;
- Document titled '[The Claimant] Oyster Losses, SYSCO Foods';
- Invoice from Sysco dated 15 May 2009-09 November 2009, 03 May 2010-18 June 2010;
- Letter from the Claimant to Matthew Russell dated 09 February 2010;
- Letter from the Claimant to Jayne Meinert dated 09 February 2010;
- 2009 Federal Income Tax Summary for the Claimant;
- 2009 Federal Income Tax Return;
- 2010 Tangible Personal Property Tax Return for State of Florida, County of Collier;
- Statements of Revenues and Expenses-Income Tax Basis for months ending 30 September 2009-31 December 2009;
- Invoices from Sysco for dates 13 April 2009-11 May 2009;
- Document titled 'Mitigation Report';
- Document titled 'Sales Report' for period 01 May 2010-31 May 2010, 01 May 2009-31 May 2009 and 01 May 2008-31 May 2008;
- Map of Gulf of Mexico and surrounding states;
- Document titled 'Profit Margin loss, Comparison of Menu Prices 2008-2011';
- Printout of the Claimant's webpage;
- Letter from Matthew John Soldavini to the Claimant dated 01 February 2008;
- Letter from the Claimant to Joseph McLaughlin dated 01 February 2008;
- Letter from the Claimant to Matthew Ferreira dated 01 February 2008;
- Letter from the Claimant to Matthew Russell dated 01 February 2008;
- 2007 Federal Income Tax Summary for the Claimant;
- 2007 Federal Income Tax Return;
- 2008 Tangible Personal Property Tax Return, State of Florida, County of Collier;
- Letter from Matthew John Soldavini to the Claimant dated 06 March 2009;
- Letter from the Claimant to Joseph McLaughlin dated 06 March 2009;
- Letter from the Claimant to Matthew Ferreira dated 06 March 2009;
- Letter from the Claimant to Matthew Russell dated 06 March 2009;
- 2008 Federal Income Tax Summary;
- 2008 Federal Income Tax Return;
- 2009 Tangible Personal Property Tax Return, State of Florida, County of Collier;
- Letter from Matthew John Soldavini to the Claimant dated 09 February 2010;
- Letter from the Claimant to Joseph McLaughlin dated 09 February 2010;
- Letter from the Claimant to Matthew Ferreira dated 09 February 2010;
- Statements of Revenues and Expenses-Income Tax Basis for months ending 31 January 2008-31 August 2009, 31 January 2010-31 December 2010.