

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-1597
Claimant	: Geneva Seals
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$23,000.00

FACTS:

On or about April 20, 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 August 23, 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 01 December 2011, Ms. Geneva Seals, (the Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking \$23,000.00 in loss of profits damages resulting from the Deepwater Horizon oil spill.¹

At the time of the Deepwater Horizon oil spill, the Claimant was working for Katrina Meals on Wheels, where the Claimant alleged she “earned \$350.00 weekly.”² The Claimant alleged that she was laid off due to effects of the oil spill. Specifically, the Claimant stated that “the oil was so bad, it destroy[ed] the seafood in Lake Ponch[ar]train, [I] was not able to sell food.”³

The Claimant seeks damages in the amount of \$23,000.00 resulting from the loss of her position with Katrina Meals on Wheels.⁴

Prior to presentment of this claim to the NPFC, the Claimant presented two Emergency Advance Payment (EAP1, EAP2) Claims to the RP/GCCF seeking loss of profits and earnings damages and physical injury/death damages. The Claimant was assigned Claimant ID 3176827 and the EAPs claims were assigned claim #s 232185 and 232321, respectively.⁵ These claims were denied on 09 and 14 December 2010, respectively.⁶

The Claimant then presented a Full Review Final Claim (FRF) to the RP/GCCF. FRF was assigned claim # 9131968 and was denied by the RP/GCCF on 21 June 2011.⁷

The NPFC denied the claim on December 19, 2011, because the Claimant alleged that following the Deepwater Horizon oil spill, she was laid off from her position with Katrina Meals on

¹ Optional OSLTF Claim Form, signed 16 November 2011.

² Letter from the Claimant’s employer, 04 May 2011.

³ Optional OSLTF Claim Form, signed 16 November 2011.

⁴ Optional OSLTF Claim Form, signed 16 November 2011.

⁵ GCCF Claimant Status, accessed on 10 December 2011.

⁶ GCCF Emergency Advance Payment Denial Letters, 09 December 2010 and 14 December 2010.

⁷ GCCF Deficiency Denial Letter on Interim Payment/Final Payment Claim, 21 June 2011.

Wheels in New Orleans, Louisiana.⁸ The NPFC contacted the Claimant's former employer in order to verify this information.⁹ The Claimant's former employer was unable to confirm the substance of the letter, and could not verify that it had been either written or signed by him.¹⁰

Furthermore, the Claimant didn't provide financial documentation to support her claimed loss in the amount of \$23,000.00. The Claimant alleged that she was paid in cash, and provided only the unsubstantiated letter from her former employer as proof of her earnings.¹¹

This claim was denied because the Claimant failed to meet her burden to demonstrate (1) that she sustained a loss in the amount of \$23,000.00, 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.

REQUEST FOR RECONSIDERATION:

On January 30, 2012, the Claimant sent a request for reconsideration via facsimile dated January 30, 2012 stating she would like the NPFC to reconsider her claim. The Claimant provided a one-page handwritten letter stating that she can verify that on February 24, 2011, Ms. Laura Sanchez of the GCCF spoke with Mr. Horne regarding her employment. The Claimant has requested the NPFC reconsider her claim and also contact Ms. Sanchez of the GCCF.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via facsimile on January 30, 2012. To support her request for reconsideration, the Claimant requested that the NPFC contact Ms. Sanchez of the GCCF in order to verify that she spoke with Mr. Horne on February 24, 2011 in order to verify her employment.

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. A 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. The NPFC considered all the documentation submitted by the Claimant.

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

In the Claimant's original submission to the NPFC, the Claimant provided a letter allegedly written by her employer, Mr. Horne, dated May 4, 2011 which stated ... "I Lowell Horne is the owner of Katrina Wheels on Meals. Ms. Geneva Seals was an employee of mine up until April 20, 2010. She; Ms. Seals earned \$350.00 weekly. She is no longer an employee since the Deepwater Horizon happen, and due to health problems."

⁸ Letter from the Claimant to the NPFC, undated.

⁹ PHONECON: NPFC Staff and the Claimant's former employer, 15 December 2011.

¹⁰ PHONECON: NPFC Staff and the Claimant's former employer, 15 December 2011.

¹¹ Letter from the Claimant's employer dated 04 May 2011.

Upon further investigation of the facts of this claim on reconsideration, the NPFC contacted both the Claimant and Mr. Horne. The NPFC spoke with the Claimant on December 13, 2011 at approximately 4:35pm EST.

The Claimant advised the NPFC that she would be faxing some information to our office including a working number for Mr. Lowell Horne, the alleged previous employer. The NPFC asked the Claimant how the oil spill caused her loss. The Claimant said that “ever since the oil spill, she hasn’t worked because Katrina Meals on Wheels couldn’t get any seafood.” Following the NPFC’s phone conversation with the Claimant, the NPFC received a new handwritten letter dated October 15, 2010 allegedly from Mr. Horne stating the Claimant worked for him from August 2009 until the BP Oil Spill.

On December 14, 2011 at approximately 3:50pm EST, the NPFC contacted Mr. Horne at 504-230-7691. Mr. Horne advised the NPFC that the Claimant worked for him as a cook. The NPFC asked Mr. Horne when the Claimant worked for him and he advised the NPFC that he would have to go home to get his paperwork. The NPFC then asked Mr. Horne how many employees worked for him on the food truck and he stated he had three employees. Mr. Horne advised the NPFC that the food truck was still in business. The NPFC then asked Mr. Horne if the Claimant still worked for him and he said yes. The NPFC then asked him why the alleged letter he wrote said that she was no longer working for him. Mr. Horne advised that he would have to go look at his papers and call back.

On December 15, 2011 at approximately 11:00am EST, Mr. Horne called the NPFC. Mr. Horne advised the NPFC that he “wanted to get the record straight” and not have anything come back to him. The NPFC asked him if he wrote the letter for the Claimant as the day before he said he had although in this subsequent conversation, Mr. Horne stated that he did NOT write the letter. The NPFC then asked Mr. Horne if the Claimant was let go due to the oil spill and he stated that she only worked for him in 2009. The NPFC again asked Mr. Horne to confirm that he did not write the letter in the Claimant’s file and that he did not let her go because of the oil spill and Mr. Horne said that was correct.

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. The NPFC considered all of the documentation submitted by the Claimant.

This claim is denied upon reconsideration because the Claimant has misrepresented material facts and provided false documents in order to falsely obtain fund from the Federal Government.

Claim Supervisor: *Thomas Morrison*

Date of Supervisor’s review: *2/13/12*

Supervisor Action: *Denial on reconsideration approved*

Supervisor’s Comments:

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
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

5890
2/13/2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7011 1570 0001 4802 6579

Geneva Seals
[REDACTED]

RE: Claim Number: N10036-1597

Dear Ms. Seals:

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 N10036-1597 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

Sincerely,

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

ENCL: Claim Summary / Determination Form