

U.S. Department of
Homeland Security

United States
Coast Guard



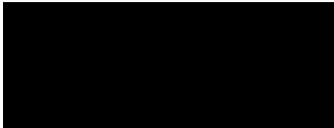
Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 1-800-280-7118
E-mail: arl-pf-npfcclaimsinfo@uscg.mil
Fax: 202-493-6937

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Number: 7011 1150 0000 4636 1925

5890/DWHZ
15 September 2011

Maid To Remember



Re: Claim Number: N10036-1357

Dear Ms. Greene:

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 N10036-1357 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 N10036-1357.

Mail reconsideration requests to:

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

Sincerely,



National Pollution Funds Center
U.S. Coast Guard

Enclosures: (1) Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Claim Number	N10036-1357
Claimant	Maid to Remember
Type of Claimant	Business
Type of Claim	Loss of Profits and Impairment of Earnings Capacity
Amount Requested	\$4,000.00

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 31 August 2011, Ms. Ila L. Greene, on behalf of Maid to Remember, (collectively Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking \$4,000.00 in loss of profits and impairment of earnings capacity that allegedly resulted from the Deepwater Horizon oil spill.

Claimant is a condominium cleaning business operating in the Destin, Florida region.¹ The Claimant stated that she was hired by Regions Rental-Beach Destin to clean condos and had more than \$4,000.00 in committed business for the period April 2010 through September 2010.² The Claimant further asserted that due to the Deepwater Horizon oil spill, Regions Rental suffered cancellations and as a result, the Claimant's contract to clean the condominiums was cancelled.³

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).

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:

¹ Letter from the Claimant to the NPFC dated 17 August 2011.

² Letter from the Claimant to the NPFC dated 17 August 2011.

³ Letter from the Claimant to the NPFC dated 17 August 2011.

- (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

Claimant's Submission to the OSLTF

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

- Optional OSLTF Claim Form received 31 August 2011;
- Letter from the Claimant to the NPFC dated 17 August 2011;
- Letter from Regions Rental-Beach Destin dated 29 April 2011;
- Florida Department of State Division of Corporations Fictitious Name Detail;
- Spreadsheet titled 'Breakdown on Business Revenue for 2009 as reported on Schedule C';
- Partial 2009 Form 1040 Federal Tax Return;
- Invoices for period: 17 April 2009-15 August 2009;
- Spreadsheet titled 'Breakdown on Business Revenue for 2010 as reported on Schedule C';
- 2010 Form 1040 Federal Tax Return;
- Invoices for dates: 13 March 2010, 20 March 2010;
- GCCF Denial Letter dated 16 June 2011.

Prior to presenting this Claim to the NPFC, the Claimant filed a Full Review Final (FRF) Claim with the GCCF for loss of profits and impairment of earnings capacity. The Claimant was assigned Claimant ID # 3166610 and Claim ID # 9039879. The FRF Claim was denied on 16 June 2011.⁴

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 the Claimant's claim before the NPFC, i.e., the Claimant lost a contract to clean condominiums 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 N10036-1357 considers and addresses the earnings claimed in the claim presented to the responsible party, specifically; GCCF Claim # 9039879 (FRF).

NPFC Determination

Under 33 U.S.C § 2702(b)(2)(E) and 33 C.F.R. Part 136, a Claimant must prove that its 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.

The NPFC reviewed all the information and documentation provided by the Claimant. Documentation included a letter allegedly written by Lisa Hegner of Regions Rental-Beach Destin.⁵ This letter specifically stated that, "Ila L. Greene did in fact work for Regions Rental-Beach Destin cleaning condo units during the spring and summer months.⁶ Generally from April through September.⁷ [sic] Due to the BP Spill on April 20th . [sic] 2010 Ila L. Greene owner of Maid to Remember suffered lost wages due to lack of business."⁸ Upon contacting Lisa Hegner of Regions Rental-Beach Destin for verification of the letter, the NPFC was informed that, "this letter was not written by me and until today I had no knowledge of it.⁹ [. . .] [The Claimant] did not suffer any lost wages from Beach'n Destin, LLC¹⁰ as after she cleaned and received check number 2878, she called to say she would not be able to work on Saturdays any longer."¹¹

After obtaining the above information, the Claimant contacted the NPFC to discuss her submission to the NPFC.¹² The Claimant acknowledged that the letter she submitted from her former employer was fraudulent and the Claimant attempted to withdraw her claim from the NPFC.¹³ The NPFC informed the Claimant that due to her presentation of a fraudulent document as part of her claim to the NPFC, she is unable to withdraw her claim.¹⁴

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

⁴ GCCF Deficiency Denial Letter dated 16 June 2011.

⁵ Letter from Regions Rental-Beach Destin dated 29 April 2011.

⁶ Letter from Regions Rental-Beach Destin dated 29 April 2011.

⁷ Letter from Regions Rental-Beach Destin dated 29 April 2011.

⁸ Letter from Regions Rental-Beach Destin dated 29 April 2011.

⁹ Letter from Beach'n Destin, LLC dated 02 September 2011.

¹⁰ Claimant's representation of her former employer as Regions Rental-Beach Destin is incorrect. The correct name of the company is Beach'n Destin, LLC.

¹¹ Letter from Beach'n Destin, LLC dated 02 September 2011.

¹² PHONECON between the NPFC and the Claimant dated 06 September 2011.

¹³ PHONECON between the NPFC and the Claimant dated 06 September 2011.

¹⁴ PHONECON between the NPFC and the Claimant dated 06 September 2011.

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 \$4,000.00 is hereby denied because the evidence presented by the Claimant, as opposed to the detailed information provided by the former employer as outlined above, demonstrates evidence of a material misrepresentation of fact in order to falsely obtain funds from the Federal Government and as such, this claim is denied.

Claim Supervisor:  *NFC Claims Adjudication Division*

Date of Supervisor's Review: *9/15/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments: