

# Picking Up The Pieces



## What you need to know to start the claim process for lost revenue and income that resulted from the Gulf Coast oil spill

By Ricky Patel

On April 20, 2010, the Deepwater Horizon, an oil rig platform operated by BP, experienced a blowout that killed 11 rig workers and released nearly 5 million barrels of oil into the Gulf of Mexico. This was the largest accidental marine oil spill in the history of the petroleum industry. As a result, the tourism industry along the Gulf Coast from Florida to Texas was dealt a heavy blow just as the busy summer tourist season should have been getting underway. The U.S. Travel Association estimated that the economic impact of the oil spill on tourism across the Gulf Coast over a three-year period could exceed \$23 billion, in a region that supports over 400,000 travel industry jobs generat-



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ing \$34 billion in revenue annually.

After its own internal probe, BP admitted that it made mistakes which led to the Gulf of Mexico oil spill. In June 2010, BP set up a \$20 billion fund to compensate victims of the oil spill in accordance with the Oil Pollution Act. In August 2010, BP transferred the administration of the fund to the Gulf Coast Claims Facility (GCCF), an agency established to review claims from businesses and individuals impacted by the spill in order to provide compensation for their

losses.

Initially, the GCCF set a deadline

of Nov. 23, 2010, for the submission of Emergency Advance Payment (EAP) Claims. These emergency claims were designed to be evaluated quickly in order to get much-needed funds to the businesses and individuals struggling to stay afloat in the wake of the man-made disaster.

Following this deadline, the GCCF entered the Interim and Final Claim process. Interim Claims are designed to be filed quarterly, and are based solely on actual past damages experienced by businesses affected by the spill (from the date of the spill until the date of filing). Claimants who accept Interim Claim payments are not required to waive their rights to pursue further damages and may continue to file Interim Claims each quarter. Final Claims include both actual past damages as well as anticipated future damages. Claimants accepting Final Claim payments must waive their rights to pursue additional damages. For these claimants, the



compensation process ends here. The Interim and Final Claim process will continue until the announced closure of the GCCF in August 2013.

In addition to filing claims with the Gulf Coast Claims Facility, many businesses and individuals are preparing to enter into litigation against BP and its partners in the oil rig. This multi district litigation will take place in New Orleans beginning in February 2012. While the litigation will be overseen by the Plaintiffs' Steering Committee, it will still be up to individual claimants to ensure they provide the correct documentation to fully support their claims.

The claims process with the GCCF has evolved over the life of the fund. The documentation requirements and filing procedures have been revised and made more rigorous throughout each stage of the claims process. This has sometimes led to misinformation and misunderstandings among claimants and potential claimants. As one Gulf Coast hotelier put it: "I thought the deadline to submit a claim was in November 2010. I didn't know I could still start a claim now." The truth is, Interim and Final claims can still be initiated. It is not too late to start a claim if you believe your business has been affected by the spill. Additionally, remember that Interim Claims can be filed each quarter. If you received a denial, a partial payment, or no response at all on a previously filed claim, you are still able to submit an updated Interim Claim and have your claim

reviewed again.

Any business affected by the spill can submit a claim with the GCCF. This includes, but is not limited to: hotels, restaurants, convenience stores, gas stations, vacation rentals, and equipment rentals (bikes, boats, etc.). What is most important is the submission of the proper documentation to prove loss of revenue and support the claim. This documentation should establish a revenue history prior to the spill and demonstrate loss of revenue following the spill. Appropriate documentation would include the following [for the time period 2007 (or date of opening) to the present]:

- Tax Returns
- Sales Tax Receipts
- Profit & Loss Statements
- Appraisals, business plans and forecasts for new businesses

Over the lifespan of the fund, the claims process has shown itself to be inconsistent in providing responses to claimants. Many claimants have been issued deficiency letters or denials due to alleged lack of documentation. Often times, claims may be frozen midway through processing due to missing documents, insufficient proof of causation or the ongoing evolution of the claims process. While the GCCF evaluation methodology takes into consideration the claimant's proximity to the coast, it also considers criteria such as the business's performance in the first

quarter of 2010. The need to document such varied criteria can often lead to delays in processing claims.

Remember, business owners were not the only ones affected by the spill. The loss of revenue experienced during the aftermath of the spill has led many owners to decrease employees' hours, postpone bonuses and raises and even let employees go. According to a Louisiana hotel owner, "I have had to lay off staff due to lack of revenue. In fact, I am in the process of considering filing for Chapter 11 bankruptcy." Any employees who have experienced a detrimental impact on their income due to the oil spill are eligible to file individual claims for loss of income with the GCCF. This can include owners who draw salaries from their properties.

To date, the GCCF has paid out just \$5.3 billion from BP's designated \$20 billion fund. There is still time for businesses and individuals to submit their claims for lost revenue and income. The most important thing is to be sure you are supplying sufficient documentation to prove your losses and demonstrate the link between your losses and the oil spill. There is extensive information available to you and claims may be submitted on the GCCF's website [www.gulfcoastclaimsfacility.com](http://www.gulfcoastclaimsfacility.com). Additionally, you can find legal and accounting experts in your area to assist you in gathering the appropriate documentation, determining your losses and advocating for you throughout the claims process. Keep in mind, the GCCF is slated to shut its doors in August 2013, and the litigation process will begin in February 2012. These factors may influence the claims process in the months to come and it is important to begin your claim as soon as possible. ■

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