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July 1, 2013

To: Motley Rice BP Claimants
Re: BP

Dear Valued Client,

Throughout the last 30 days, there have been a number of news articles discussing BP's ongoing dispute with the Court over the interpretation of the Business Economic Loss calculation procedures. Having failed to convince the District Court of its new proposal for smoothing and matching revenue and expenses, and having failed to convince the Appellate Court to enjoin payments, BP has now gone over the top.

BP has started a paid advertising publicity and direct letter campaign threatening attorneys and claimants. These campaigns are thinly veiled attempts to intimidate businesses and their attorneys who have filed and been paid according to the terms that BP agreed to under the Settlement Agreement.

As one of the lead negotiators for the Class, I am very upset with what BP is trying to do: change the agreement.

We think it is time for you to understand the facts. Facts that BP wants you to forget. BP wants you to forget where they were in late 2010 and 2011 when the settlement was being negotiated.

BP was very concerned. It faced governmental, legal and public attacks for the total absence of corporate integrity that led to the worst oil spill the world has ever seen: the death of eleven men, still unknown environmental damage and the destruction of the Gulf Coast economy. BP's financial future was at risk.

Facing potential failure under the weight of the private claims and other potential economic impacts of the spill, BP sought to negotiate a resolution. A resolution that BP's Board was told would cost billions of dollars but secure the financial survival of the company.

As Rick Godfrey, lead counsel for BP, told the court when he was seeking approval of the Economic Settlement:

> Like any settlement, the settlement that has been reached to resolve this litigation is a compromise, a yielding of the highest hopes in exchange for certainty and resolution. The Settlement stands alone, however, in its substantive generosity to the Class Members and in its procedural fairness.
>
> The formulas were negotiated at length by the Parties' counsel, assisted and informed by experts and colleagues with specialized knowledge of various aspects of the litigation and the array of claims categories. These experts, who included economists, accountants, and real estate experts, among others, analyzed and responded to questions posed by both BP and the PSC throughout the negotiation process.

BP obtained predictability, eliminated uncertainty and gave the people of the Gulf economic aid when they needed it most, not ten years from now. This was a negotiation. Claimants walked away from the right to seek damages extending beyond 2010 and punitive damages.

The Settlement was intended to be applied exactly as it was written, which is what Claims Administrator Patrick Juneau has done and what Judge Barbier has confirmed on three separate occasions. The fact that a Business

Economic Loss is based on a pure revenue analysis, subject to the timing of the receipt of the revenue, is what the document says – as intended, expressly negotiated for and agreed to by BP when it wanted financial protection. Also included was the Class Geography, extending to virtually all businesses throughout the entire States of Alabama, Louisiana and Mississippi as well as parts of Florida and Texas. Mr. Godfrey clearly stated this in his letter to the lead negotiators for the Class, when he said:

> The compensation framework is not the 'causation test', which determines eligibility to claim that there was a loss *caused by* the oil spill. Rather, once the causation test has been satisfied (or presumed, as in Zone A for example), the Compensation Framework is designed to determine the compensation amount for the post-spill loss.
>
> The economics or accounting for determining a compensation amount for a post-spill loss is, in simple terms, to compare the *actual financial results* during the defined loss period measured against the profit that the claimant *might or should have been expected to earn* in the comparable post-spill period of 2010…. Put simply: The claimant has the right to select three or more consecutive months from the period May to December 2010 as the Compensation Period. Thus, if the claimant selects the months of June, July and August 2010 as the Compensation Period, for example, then that 3-month selected period is measured against the 'comparable months of the Benchmark Period' i.e., June, July and August of the pre-spill Benchmark Period.

This is exactly what the Agreement says, how it was interpreted by the professional accounting firms that were hired by the Program, how it was interpreted by Mr. Juneau, (whom, incidentally, BP nominated for the position of Claims Administrator) and how it was interpreted by the Court. For BP to now seek to take the benefit of the bargain away from the people of the Gulf and yet keep the economic comfort that they received from the class-wide release in the Settlement is incredible.

Indeed, Mark Holstein, BP's In House Counsel, wrote two letters to Mr. Juneau in September 2012, in which BP agreed that:

> One of the cornerstones of the Settlement Agreement is the use of transparent, objective, data-driven methodologies designed to apply clearly-defined standards to a claimant's contemporaneously-maintained financial data submitted in compliance with documentation requirements. These methodologies and requirements were carefully negotiated by the parties and are set forth in the Settlement Agreement as mandatory requirements. Among other reasons, these methodologies and requirements were negotiated in response to concerns voiced by some that the prior GCCF process was too dependent on accounting judgments that were not transparent.
>
> …. Because the claimant's actual monthly results are the foundation for the causation and compensation evaluations under the BEL framework, use of allocated proxy rather than actual data could severely distort the resulting outcomes.
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> * * *
>
> …. If the accurate financial data establish that the claimant satisfies the BEL causation requirement, then **all losses calculated in accord with Exhibit 4C are presumed to be attributable to the Oil Spill.**
>
> Nothing in the BEL Causation Framework (Ex. 4B) or Compensation Framework (Ex. 4C) provides for an offset where the claimant firm's revenue decline (and recovery, if applicable) satisfies the causation test but extraneous non-fictional data indicate that the decline was attributable to a factor wholly unrelated to the Oil Spill. **Such "false positives" are an inevitable concomitant of an objective quantitative, data-based test.**

How can BP now complain when Mr. Juneau and the Court agree with BP's own description of how the Settlement was supposed to be applied to business claims?

BP generates almost $400 billion a year. The company is crying "foul" when BP is projected to pay about three months of earnings to compensate the families and businesses for the Deepwater Horizon disaster. It's ironic that BP talks about people "getting something for nothing" when that's exactly what BP is trying to do.

While BP was facing a trial on the merits and felony charges, it agreed to the Economic Class Settlement, and, initially, promoted the Settlement Program, encouraging many claimants to file. Now that the felony charges have been resolved, (BP using the Settlement as a basis for reduced criminal fines and penalties), and now that the phase 1 liability trial has concluded, BP is potentially exposed to billions more in additional civil fines and damages and is looking for a way to save some money.

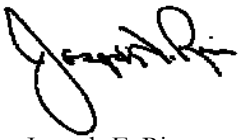
BP waited until after the three-year anniversary of the spill,[1] after the class was locked in and after the criminal charges were resolved, before setting off on this anti-Settlement (and anti-Class Member, anti-Claims Administrator, anti-Small Business, anti-Lawyer and anti-Gulf Coast) campaign. It's the old "bait and switch."

As you know, every claimant who receives an Eligibility Determination must sign an individual release that BP co-drafted and insisted upon for its benefit. This release says that (with some express reservations) the claimant forgoes all other rights, claims or benefits under any other laws and agrees to be bound by the Claims Administrator's determination. **Isn't BP bound by that same determination?**

While BP can send whatever letter it chooses, we believe that it is very unlikely that either the Claims Administrator or a Court would seek or compel a claimant to return funds that have been paid under a full and final determination by the Settlement Program. First, we do not believe that the Claims Administrator is authorized to do this under the Agreement. Second, BP sought an injunction or stay from the United States Fifth Circuit Court of Appeals, which was denied. And the scant case law that BP refers to in its letter involved the situation where a judgment is rendered over the defendant's objection, not where a settlement is voluntarily entered and paid. While we, of course, cannot guarantee a result, in our opinion, BP's letter misstates the law and the facts, and is in violation of the Settlement Agreement reached between the parties last year.

Your attorneys at Motley Rice LLC will continue to vigorously pursue the rights we negotiated for the true victims of the Deepwater Horizon Spill.

Sincerely,



Joseph F. Rice
Attorney at Law

[1] In general, there is a three-year statute of limitations under the Oil Pollution Act (OPA) and the General Maritime Law. BP will argue that such limitations periods expired on the three-year anniversary of the blowout – *i.e.* April 20, 2013. Counsel for plaintiffs will argue that various legal doctrines and/or factual circumstances dictate that the statute did not start to run until after April 20, 2010, and/or that the limitations period was otherwise suspended, interrupted or tolled. It is difficult to predict how or when these questions might be resolved.