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SEPTEMBER 11TH COMPENSATION FUND REGULATIONS ANNOUNCED

WASHINGTON, D.C. – Today, less than one month after his appointment as Special Master for the September 11 Victim's Compensation Fund, Kenneth R. Feinberg announced a set of Interim Final Regulations that will permit the program to start running immediately and begin providing Advanced Benefits to those most in need. The September 11th Fund was created by Congress to provide victims with an alternative to the long and costly litigation process. Those eligible to receive compensation from the Fund include representatives of victims who died at the World Trade Center, the Pentagon and Shanksville, Pennsylvania.

"This Victims' Compensation Fund is an unprecedented expression of compassion on the part of the American people to the victims and their families devastated by the horror and tragedy of September 11th," said Feinberg. "While there is no amount of compensation that can replace a human life, our goal is to aid those who have so greatly suffered as a result of this horrendous act. The Attorney General instructed me to cut all unnecessary red tape and deliver a program that can help the victims as soon as possible. Such a program is precisely what we are announcing today."

The program, as structured, will resolve every claim within a matter of months. Claimants may elect a procedure involving detailed submissions and a full hearing that will take approximately 120 days, or may ask to have their claim calculated by an evaluator within 45 days from the date they complete the claim forms. The Special Master can also provide Advance Benefits for victims who need financial assistance during the time that the claims are pending - \$50,000 for families who lost loved ones, or \$25,000 for seriously injured victims.

The final awards under the program will depend upon the individual circumstances of every claimant, and will be calculated based upon an economic and non-economic component. The Special Master is today issuing charts and tables of estimated awards explaining generally how such awards will be calculated, and how claimants might estimate their likely awards. "It is important to ensure that people have a sense of what they might receive from the program before they decide to apply." Feinberg said.

Congress required that the Special Master deduct "collateral source compensation" from the award, e.g. benefits from other government programs, insurance benefits, etc. However, the program will not deduct gifts from charities to the victims.

"We will also ensure that every family who lost a loved one receives, in total, at least a minimum level of compensation from all sources. For victims who were married or had children, that minimum will be \$500,000 -- meaning that that they will receive a combined total of at least \$500,000 from our program, other state and federal programs, life insurance and other compensation (excluding gifts from charities). The minimum for deceased victims who were single will be \$300,000. Many claimants will receive substantially more than these minimums."

Any disputes over whether an individual should be named as a deceased victim's personal representative shall be resolved according to state law.

In developing these Interim Final Regulations, the Department and Special Master reviewed many hundreds of comments from interested parties, and consulted with economic experts. In addition, a number of meetings have been held with groups that represent the victims of the attacks, with elected officials and with other interested parties. Although the Special Master is soliciting further comments from the public and may adjust the Interim Final Regulations as appropriate after analyzing such comments, claimants may now rely upon these regulations and may begin the application process.

The Special Master will begin processing claims for Advanced Benefits tomorrow, Friday, December 21, and will have personnel available by telephone, and at locations in New York City at Pier 94, West 54th St. and 12th Ave., New York, New York 10019; and Metro Washington at the Sheraton Crystal City, 1800 Jefferson David Highway, Arlington, VA 22202. Offices will open at 1 p.m. on Friday. Claimants may also call 1-888-714-3385 (Toll-Free) or 202-305-1352 and TDD: 1-888-560-0844.

A copy of the Interim Regulations with explanatory material will be available at the Department of Justice website at <http://www.usdoj.gov/archive/victimcompensation/>. Also posted at that site are materials explaining how to estimate compensation under the Fund

Department of Law
120 Broadway
New York, NY 10271

Department of Law
The State Capitol
Albany, NY 12224

For More Information:
(518) 473-5525

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SPITZER CRITICIZES DOJ REGULATIONS ON SEPTEMBER 11th VICTIM COMPENSATION FUND

Attorney General Eliot Spitzer today criticized the proposed regulations governing the September 11th Victim Compensation Fund, and called upon the Department of Justice (DOJ) to correct the many flaws in the regulations.

"Congress demonstrated its great generosity by creating the Victim Compensation Fund, thereby opening the door to monetary recovery for those injured in the September 11th attacks and the families of those killed," said the Attorney General. "Unfortunately, the regulations issued by DOJ today are unduly restrictive and subvert the intent of Congress, which was to fully compensate all victims of the tragedy. The regulations are deficient in many ways, and I therefore am calling upon DOJ to fix these problems before the regulations become final."

Attorney General Spitzer identified numerous fundamental flaws in the DOJ regulations. Most significantly, the regulations:

- eliminate the right of injured victims to file claims if they continue to work despite their severe pain and suffering;
- require contemporaneous records demonstrating medical treatment within 24 hours after the attack, even though:
 - (1) there are no records for the hundreds of injured victims treated at emergency triage locations on September 11th; and
 - (2) many other victims first sought to reunite with their families, and did not seek medical treatment for their injuries until September 12th;
- provide no protections for undocumented aliens whose spouses were killed or who were themselves injured in the attacks;
- effectively preclude recovery by unmarried life partners;
- ignore the statutory mandate that victims be able to present evidence of their losses, and instead determine that all individuals killed in the attacks are presumed to have suffered exactly \$250,000 in "non-economic" losses, regardless of individual circumstances, and permit increases in that amount only upon a showing of "extraordinary circumstances";
- reduce awards by the amount of collateral compensation that the claimant has received, even if the collateral compensation was unrelated to the damages for which recovery is sought;

- state that charitable donations will not be counted as "collateral source" payments resulting in reductions of awards, but at the same time authorize the Special Master to determine that charitable payments are collateral sources, which will deter charities from providing immediate payments to the victims; and
- provide that even unconscionably low damage awards are binding and unappealable.

"While the regulations appear to contemplate significant financial awards to the families of the deceased victims, there are numerous flaws in the regulations that close the door to many others," said Attorney General Spitzer. "Consider, for example, a secretary who worked in the World Trade Center, walked down 80 flights after the first plane hit, was caught in the cloud of debris following the collapse, suffered severe respiratory distress and was carried by a firefighter to a triage location for medical treatment, went to see her own doctor the next day, and is now traumatized and unable to return to work. This is exactly the type of person that Congress intended to compensate, but she cannot file a claim under the DOJ regulations."

"Since September 11th, Congress has passed laws placing caps on the liability of the airlines, aircraft manufacturers, airport operators and others, thereby severely limiting the ability of the victims of the attacks to recover their damages in court. In return, the Victim Compensation Fund was supposed to provide full compensation to all victims of the attack, and to provide a fast and efficient method for doing so. The regulations promulgated today by DOJ violate the language of the federal law, the intent of Congress and the will of the American people, by declaring many victims ineligible to recover funds, and limiting the ability of all other victims to prove the full extent of their losses."

"These regulations are subject to a 30-day public comment period, after which DOJ will be issuing the regulations in final form," the Attorney General added. "It is essential that DOJ amend these regulations to address the many deficiencies noted above, and thereby ensure full compensation for all of the victims of the September 11th terrorist attacks."