



Written by [Alex Newman](#) on August 24, 2010

Czar Takes Over \$20 Billion BP Slush Fund, Critics Attack

Amidst strong criticism, the Obama administration's "Compensation" Czar Kenneth Feinberg (left) took over BP's \$20 billion "slush" fund set up for victims of the Gulf of Mexico oil spill. The fund's new leadership began processing claims on August 23.



The effort is already being attacked from all angles, especially by state officials and local attorneys. Among their gripes: the terms set by Feinberg are too restrictive, there is not enough time to assess damages, any money paid out by BP for help in the clean-up effort will be deducted from damages, and more.

"What my clients are saying is, 'If it hadn't been for them, BP would have had to hire an outside company.' Why should they be penalized?" [wondered](#) attorney Stuart Smith of New Orleans, who is representing fishermen and other victims, about the proposal to deduct wages paid to help in the clean up from any settlements.

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State officials were also very critical. "The current process appears to be even less generous to Floridians than the BP process," said Florida Attorney General Bill McCollum in a statement. "Such an outcome is completely unacceptable."

Alabama's Attorney General, Troy King, was also furious, calling Feinberg a "corporate shill" for BP. "Mr. Feinberg seems to be completely tone-deaf to the concerns of people along the Gulf Coast," he said. Top officials in Louisiana and Mississippi also criticized Feinberg, according to the [Wall Street Journal](#).

But Czar Feinberg fought back against the accusations. "I am beholden to neither the administration nor BP," he said. "I am entirely independent." He also hinted at a local meeting that he might be more generous than BP in paying out damages, noting that victims of the oil spill were also welcome to seek damages in court through the judicial system if they thought it would serve their interests better.

"I don't care what BP did. I'm in charge now," Feinberg told a group of oil-spill victims. "I don't care if BP denied your claim. File it again. I might find you eligible. It's a new day." Feinberg previously served as the administration's executive-pay czar and as the "special master" of the September 11 attack victims' compensation fund.

The BP-financed compensation fund, known as the Gulf Coast Claims Facility, was set up in June following strong-arm tactics by the Obama administration. Before being taken over by Feinberg, it had paid out slightly less than \$400 million and processed almost 80,000 claims.

For now, those who submit compensation claims do not automatically forfeit their right to sue BP in the future. But in six months, that will change. Whether compensation recipients will be able to sue Transocean or Halliburton, which were also linked to the oil spill, is still uncertain.



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Other critics of the fund are worried that it will attract fraudsters seeking compensation for damages they did not suffer. But the Justice Department announced that its National Center for Disaster Fraud would be working to prevent that in an effort to downplay those fears.

But on top of all of that is the issue of the fund's existence in the first place. Legislators and pundits have been fiercely critical of the tactics used to coerce BP into setting up the fund, bypassing the normal judicial procedures used to award damages to victims.

Representative Michele Bachmann (R.-Minn.), for example, [said](#) there is "a misreading of the Constitution and a misunderstanding of jurisdictional limits from this White House on what the extent of executive power is." Blasting Obama's actions as on par with extortion, she said the administration was seeking to "create a pot of money for themselves that they can control."

Another legislator, Congressman Joe Barton (R.-Texas), was forced to apologize after [referring](#) to the administration's tactics as a "shakedown" and the compensation money as a political "slush fund." And while it's true that Barton has indeed received a lot of money from "Big Oil," his characterizations were right on point according to observers and critics of the administration. Other lawmakers — who did not later recant their remarks — were equally critical.

"BP's reported willingness to go along with the White House's new fund suggests that the Obama administration is hard at work exerting its brand of Chicago-style shakedown," wrote Representative Tom Price of Georgia in his capacity as chairman of the Republican Study Committee. "[I]n an administration that appears not to respect fundamental American principles, it is important to note that there is no legal authority for the President to compel a private company to set up or contribute to an escrow account."

Of course, there is little question that BP is indeed responsible for damages resulting from its oil spill. But the Constitution does not authorize the measures taken by the administration, and so, critics say they are unconstitutional. The established and lawful method for dealing with these types of problems is litigation, the judicial system, or mutually agreed upon settlements. How this will all play out over the next few years is still unclear, but according to analysts, the potential for various sorts of abuse is very strong.

Photo: Kenneth Feinberg, administrator Gulf Coast Claims Facility, testifies on Capitol Hill on July 22, 2010: AP Images



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