



## STATE OF FLORIDA

**PAM BONDI**  
**ATTORNEY GENERAL**

February 25, 2011

### VIA U.S. MAIL AND E-MAIL

Kenneth R. Feinberg, Esq.  
Feinberg Rozen, LLP  
The Willard Office Building  
1455 Pennsylvania Avenue, NW  
Suite 390  
Washington, DC 20004-1008

Re: Gulf Coast Claims Facility (“GCCF”)

Dear Mr. Feinberg:

I appreciate the time you took to travel to Tallahassee to meet with me and my staff last Friday. This letter memorializes some of the key points from our meeting.

During our meeting, I shared my disappointment with the GCCF process and requested immediate changes so Floridians can receive the compensation they deserve. The Deepwater Horizon oil spill had far-reaching effects on Florida and other Gulf Coast communities, spanning from the tourism industry to the fishing industry and more. Hundreds of thousands of Floridians’ livelihoods have been devastated by the oil spill and compounded by a nearly halted claims process.

Much of our discussion involved the needed improvements to the GCCF’s operations to ensure that claims are promptly processed and paid, a goal that I know you share. Solutions that I offered to improve the claims process included:

- Hiring additional local claims adjusters with the authority to resolve claims on the spot;
- Appointing an independent auditor to review the past and future decisions of the GCCF and ensure fairness and accountability;

- Paying any pending interim claims immediately and expediting all pending claim payments; and,
- Making the GCCF claims procedures public as well as providing clear explanations to each claimant as to why a claim was reduced or denied.

I look forward to hearing from you on the prompt implementation of these concepts to ensure a more streamlined, responsive, and timely claims process.

In our meeting, you indicated that the GCCF would hire additional local adjusters in the next week or so, although I note that you made the same promise to the Attorneys General in the meeting I attended as Attorney General-elect in Fort Lauderdale three months ago. Please advise me of the details for the local hires, including the number of additional employees, their locations, and a description of their responsibilities. You also agreed to consider providing local adjusters with settlement authority up to a certain amount, although you expressed reluctance to do so. As you know, my view is that it does little good to add adjusters to the local offices if they lack the ability to make meaningful decisions.

You recognized the merits of the single point of contact system that both I and my predecessor have advocated for some time and agreed to provide such a system for claimants at the local claims offices. However, I would ask that you consider having a single point of contact system for all claim inquiries.

You further indicated that the GCCF would provide claimants with a list of local accountants and include the cost of the accountants in any paid claim, a point announced last Friday in the Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology (“Final Rules”). Moreover, you agreed to at least consider the appointment of an independent auditor to review the GCCF’s operations and suggest improvements. It is my view that only an independent audit will provide answers to the serious questions surrounding the fairness and efficiency of the GCCF process, especially given the continuing lack of access to meaningful data to look for payment trends.

You also promised that interim and final payments would promptly begin over this past weekend. While payments did commence, there has been very little progress so far. Only four hundred forty-four (444) interim payments have been made to date, less than two per cent (2%) of the interim claims backlog in Florida. Almost all of these interim payments have been to individuals, with an average payment of less than \$5,500.00 for individual claimants.

The GCCF has made another seven hundred eighteen (718) final payment offers based on interim claim submissions, with the final offers averaging less than \$7,700.00 per claimant. It would thus appear that these claimants may receive interim payments of less than \$4,000.00 on average.<sup>1</sup> The GCCF has only made a single additional final payment,

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<sup>1</sup> This is because claimants submitting an interim claim are given both interim and final payment numbers, with the final payment offer generally set as twice the interim payment for 2010.



with another fourteen hundred ninety-two (1,492) pending final offers based on full review claim submissions, for an average of \$8,300.00 per offer. This number of offers represents a mere five per cent (5%) of the final full review claims backlog in Florida.

I trust that the pace of interim and final full review payments will accelerate although I am troubled by your recent statement that less than 20% of claimants have the necessary documentation. I would be interested in learning more about what level of documentation the GCCF deems sufficient to render a claim complete. At some point, the problem may be the system design itself.

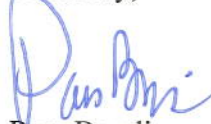
You indicated that the GCCF would provide claimants with an explanation of any payment denial or reduction, an issue of utmost importance to me. However, the Final Rules, received by my office last Friday evening, do not appear to provide a meaningful explanation. Instead, claimants are told of the nature of any missing documentation (by broad category) at the time of claim payment or denial and then allowed to resubmit a claim (or at least a final claim) with that documentation. While that is a step in the right direction, it would be far more expedient for claimants to be told earlier in the process what information was required to complete their claims.

You should also make it very clear that claimants may resubmit interim claims with the additional documentation without waiting until the next quarter to do so. In the same way, simply identifying the type of missing documentation in a letter to the claimant does little to help claimants understand how claims payments are determined. This lack of transparency for payment calculations is only exacerbated by your refusal to disclose (even to my office) the claims manual or other internal materials used by the GCCF.

While it is clear from my office's initial review of the Final Rules that there are some improvements, such as the expansion of the oyster industry classification, I would note preliminarily that overall the Rules appear to be even more stringent than the February 2<sup>nd</sup> methodology. I am particularly troubled by the new emphasis on geographic proximity and business types.

Mr. Feinberg, I intend to hold you to the promises you have made to me and the citizens of Florida. The economic impact of this environmental disaster will be felt for many years to come by Florida's citizens if the GCCF claims process is not made both fair and efficient. I look forward to continuing our discussions in the very near future.

Sincerely,



Pam Bondi  
Attorney General

cc: Governor Rick Scott