Who is Kenneth Feinberg?

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The career of “claims czar” Kenneth Feinberg leaves little doubt that the escrow account set up by the Obama administration to compensate victims of BP’s Gulf of Mexico oil blowout will have as its overriding aim the defense of the oil giant’s profitability.

The selection of Feinberg to head the $20 billion Independent Claims Facility was approved by BP executives, and with good reason. He has been repeatedly called upon to protect the interests of the wealthy and the powerful. Most notably, he was selected to chair a similar escrow account set up to compensate victims of the September, 11, 2001 terrorist attacks in the US. Later he was chosen as the Obama administration’s “pay czar” for bailed out banks and corporations.

Feinberg’s task has been to present the image of objectivity and concern while pursuing the interests of the state and big corporations.

An attorney by training, Feinberg emerged as a political figure in the late 1970s, when Massachusetts Senator Ted Kennedy made him chief of his Senate staff. From there, Feinberg joined or helped establish two politically connected Washington law firms. His specialization was mediation and “alternative dispute resolution.”

In a number of high-profile disputes since the 1980s, Feinberg has repeatedly proven himself a reliable “fixer” for the ruling class:

Agent Orange Product Liability Litigation

The massive use of the chemical defoliant Agent Orange by the US military in Southeast Asia during the Vietnam War had, by the 1980s, become a major source of embarrassment for the US. In addition to devastating the Vietnamese population—some 400,000 people died from the chemical and 500,000 children were born with birth defects—tens of thousands of US soldiers had experienced direct exposure. They reported a wide array of symptoms, from various cancers to birth defects among their children.

A class action lawsuit was gaining steam against Agent Orange’s manufacturers when Feinberg was brought in to resolve the case. Within six weeks, he had ended the eight-year-old lawsuit by establishing a $180 million fund, a small amount for Agent Orange’s producers, the chemical giants Dow and Monsanto. For his labors Feinberg was paid $800,000. Affected veterans were given $1,200 in exchange for disavowing their right to litigate.

The Dalkon Shield case

Feinberg was appointed Trustee of the victim compensation fund for Dalkon Shield, a notorious birth control device that manufacturer A. H. Robins sold in the 1970s in spite of evidence that it caused serious injury among women.

According to the May 1996 journal HealthFacts, “235,000 American women suffered injuries, most of which involved life-threatening pelvic infections. Many cases were severe enough to cause hospitalization, permanent infertility, complete hysterectomy, and/or chronic pelvic pain. There were over 200 documented cases of a rare, potentially lethal type of infected miscarriage called spontaneous septic abortion. Ultimately, 20 women died of complications associated with the Dalkon Shield.”

It was established that A. H. Robins knew of the dangers to women’s health, but suppressed the information, even destroying evidence. In 1985 A. H. Robins filed for Chapter 11 bankruptcy in order to protect itself from Dalkon Shield litigation. A trust fund was established, overseen by Feinberg, by which injured women forfeited their right to go to court and a cap was set on company liability.

While Feinberg’s trust gave most women $725 or less, A.H. Robins was saved. “[P]otential buyers were no longer scared by Robins, which made other lucrative products like Chapstick and Robitussin," HealthFacts explains. "In 1987, while the company was in bankruptcy, Robins stock had the highest rate of appreciation of any security on the New York Stock Exchange. In 1989, Robins was purchased by American Home Products; the company's stock, much of it owned by the Robins family, quadrupled in value."

September 11th Victim Compensation Fund

After mediating a series of high profile cases such as Dalkon, Agent Orange, as well as several asbestos class action lawsuits, Feinberg's credentials were well-established to head up the September 11th Victim Compensation Fund, which aimed to stop lawsuits by family members of those killed in the attack on the World Trade Center.

Appointed by Bush administration Attorney General John Ashcroft, Feinberg's assignment was only secondarily to limit damages to the federal government and the airlines. This time the primary purpose was political—to avoid lawsuits that might bring to light uncomfortable truths about the Bush administration's role in the lead-up to the 9/11 attacks and what the preponderance of evidence suggests was an ordered stand down of the US military-intelligence apparatus.

Signing up for the fund meant that families would forgo the right to sue. It was also paired with a scarcely veiled threat. "In making their election (to forego monetary compensation), plaintiffs should be fully informed of the risks accompanying litigation," the Bush administration asserted in a 2001 court document. "TSA's vigorous enforcing of the rules governing non-disclosure of sensitive security information may present significant litigation consequences for all plaintiffs, and the government respectfully requests that the court include a statement to this effect in any finalized protocol."

Mary Sciavo, an attorney who represented several 9/11 families, warned the families not to be "bulldozed into taking a cheap payout from the government."

Obama administration "Pay Czar"

Feinberg's most prominent job came with his selection by Obama to "oversee" executive pay at financial institutions and corporations that had received a large portion of the $750 billion Troubled Asset Relief Program (TARP). The appointment was largely a public relations stunt designed to defuse popular anger over Wall Street pay.

Feinberg did nothing to curb executive compensation at the firms, personally approving multi-million dollar pay packages for numerous executives. In 2009, Feinberg declared he was limiting cash salaries for top executives to $500,000. This figure—ten times the median pay for US workers—was in fact no limit. Firms could simply increase stock options and other forms of compensation. In the end, the top 138 executives at the TARP bailed out firms averaged $2.5 million in compensation in 2009.

At the financial wing of General Motors, GMAC, Feinberg approved a $7.7 million salary for senior risk officer Samuel Ramsey and $4.9 million in compensation for Chief Financial Officer Robert Hull in 2009. CEO Fritz Henderson saw his 2009 compensation more than double from 2008, to $5.5 million. This while the Obama administration's Auto Task Force gutted the wages and benefits of autoworkers and retirees.

In his last act as "pay czar," Feinberg approved a $4 million raise for the CEO of the three-times bailed-out out insurance giant AIG, Robert Benmosche, for 2010. "In light of the fact that the specified employee will remain in the employ of AIG," Feinberg wrote to AIG, "it is appropriate to provide… long-term incentives to ensure that the employee contributes to AIG's long-term success and, ultimately, AIG's ability to repay taxpayers."