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**HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

HEARING ON

**“CHARITABLE CONTRIBUTIONS FOR SEPTEMBER 11:
PROTECTING AGAINST FRAUD, WASTE, AND ABUSE”**

TESTIMONY OF

NEW YORK STATE ATTORNEY GENERAL

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Chairman Greenwood, Congressman Deutsch and distinguished Members of this Subcommittee, thank you for inviting me to testify before you today on the important issues that face us in the wake of the September 11th attacks and the charitable outpouring that followed that tragedy.

The physical and emotional impact of the events of September 11th is staggering. Several thousand people lost their lives at the World Trade Center, the Pentagon and in Pennsylvania, and so the relief effort plainly begins with an understanding of the thousands of grieving families and friends they have left behind. Many children will grow up without a parent, and thus families may need support for years.

In addition, thousands of people were injured as they fled the World Trade Center or tried to rescue others. Many will require years of medical treatment and other assistance. Thousands of others in New York lost homes, jobs, businesses and sense of security. The individual and aggregate physical, emotional and economic losses are huge. The need for services ranging from education and training to mental health counseling is equally enormous and will endure for years to come.

Our response to this tragedy must be guided by a single overriding principle – the needs of the victims and their families must be addressed as promptly and coherently as possible.

The American people have already responded to this call, by opening their hearts and wallets in an unprecedented way. Charitable institutions have collected more than \$ 1.1 billion in donations and pledges, making appeals to their donors that directly cited the need for relief of this disaster. Collectively, the American public has great expectations that this outpouring of relief will make a difference for those who are suffering, both on an immediate basis and over the long haul.

As a result, the charities that have been entrusted with these funds must spend them in a manner that fulfills the will of the donors. In particular, the donations made specifically in response to the September 11 attacks must be used exclusively for the benefit of those who have suffered as a result of those attacks. Moreover, the funds should be distributed in an equitable manner, ensuring that no victim is left unassisted. Indeed, if this singularly important task is not performed well – with dignity, fairness, equity and justice for all of the victims – then the public could lose faith in the entire not-for-profit sector.

As New York’s Attorney General, I am charged with overseeing those charities that solicit funds in our state, as well as the charitable organizations, including foundations and charitable trusts, which are created in or hold assets in our state. It is my duty to help ensure that the interests of the public are protected when charitable funds are raised and spent. I consider it a privilege to perform this important function, especially in this time of great need.

Nevertheless, the essence of charity is its voluntary nature. Americans decide individually, often in a manner closely linked to our individual views and faiths, how to make contributions to charities that serve our shared goals. There are many diverse ways in which relief can be provided effectively, in keeping with our country’s strong tradition of private philanthropy.

In New York, most not-for-profit groups (other than religious organizations and certain other exempt entities, such as the Red Cross) are required to register with the state and comply with annual financial reporting requirements. My office makes those reports public, so that donors can make informed choices as they plan their contributions. We oversee not-for-profit groups, including those that are exempt from registration and

reporting rules, to ensure that they use their charitable assets in ways that fulfill the intent of the donors and further the public interest. My office tries to ensure that charitable solicitations are truthful, that charities invest their funds carefully and that the officers, directors and trustees who manage not-for-profit institutions uphold their fiduciary duties to the beneficiaries of the charities they run.

But my office does not and cannot tell the charities how to spend money – and most Americans probably agree that government should not control this private giving process.

As regulators, our goal in general has been to help donors' efforts to obtain information more easily concerning what each charity has done and pledges to do with the funds it collects from the public. Here, with the magnitude of the September 11th tragedy, and the huge numbers of its victims, we must also pay special attention to helping those individuals and families obtain the information they need to locate the assistance they deserve.

Very soon after the disaster, it became clear to me that we needed a coordinated charitable response, and that we could not afford to wait for that coordination to evolve over an extended time period. I therefore have tried to use my office to jump start the necessary collaboration. While there was some initial resistance from some charities, that resistance has been largely overcome, and my office is now working very cooperatively with many of the charities involved in this effort.

In particular, my office identified five critical areas that needed to be addressed, and we have made substantial progress toward achieving all of these goals:

1. making it easier for victims to learn what relief is available, and to access that aid;

2. creating a victims database, to facilitate coordination, avoid duplication and ensure fairness in the aid distribution process;
3. providing the American public with information about the amount of donations received and expended, and the purposes of those expenditures;
4. investigating and prosecuting any instances of fraud and abuse that arise; and
5. ensuring that a working group of charities and victim advocates is established, to solve problems as they arise and swiftly identify gaps in the services required to meet victims' needs in the future.

I will devote the remainder of this testimony to a more detailed discussion of each of these initiatives.

Victims' Need for Access to Information and Streamlined Process:

The government agencies and charitable organizations that have stepped in first to meet victims' most immediate and acute needs have distributed tens of millions of dollars in aid, but already reports of delays and gaps in service are emerging. Although thousands of victims have already received aid, many others are still in need. Moreover, almost all are baffled by the process, which involves a dizzying array of forms and scores of phone calls, ever-changing assistance personnel, perceived delays in receiving relief and, as yet, very little explanation of how to go about accessing relief for longer-term expenses. These problems are very troubling.

The lack of coordination also affects the charities, particularly those seeking to support longer-term needs of the victims, which are finding it difficult to identify the victims they have pledged to serve. It is certainly reasonable for those charities – as well as charities whose relief focuses on broader, community-wide losses – to take additional time to assess the needs, consult with other charities and develop effective service plans, but that process should be as open as possible, so that the victims and donors can monitor

progress. As yet, we know very little about the plans for this portion of the charitable dollars raised.

One of my top priorities has been to bring all of the various charities together in an effort to address these issues – particularly the problems faced by the victims – as quickly as possible. The good news is that the charitable organizations are responding positively to our efforts. For example, almost 100 charities and other private entities have already provided my office with detailed information about their programs and funding criteria, and we have created a public website for this information: www.wtcrelief.info.

This website – which has been up and running for more than a month – contains a search function which helps victims and their families locate those charities that are providing the precise type of assistance the victims need. Increasingly, as more data is accumulated each day, this website also includes contact information and other guidelines, so that victims will find it easier to obtain relief.

The website can also easily be used by donors in deciding which charities to give money to. Donors can find the charities that are providing the specific kinds of assistance they wish to support, can link to those charities' financial reports on an independent website (www.GuideStar.org), and in many instances can link directly to the charities' own websites to get more information or donate on-line.

The www.wtcrelief.info website also provides charities with a vehicle to learn more about their colleagues' efforts, so that they can work closely with those serving the same goals as their own, and can identify those needs that may be receiving less attention.

I hope in the near future to work out with the charities a mechanism enabling individual victims and families to use our www.wtcrelief.info website to send information about their needs directly to the listed charities, so that those charities can contact them more promptly. My goal, which I know the charities share, is to facilitate outreach by the charities to the victims, especially those who are frustrated, fearful or otherwise experiencing barriers to assistance.

We must remember, however, that many victims and their families do not have computers, or are not proficient in English, or both, and thus any Internet-based assistance can only fulfill a part of the existing needs. As a result, we need to streamline the written application process to the greatest extent possible. Although it is wonderful that so many organizations are stepping forward to provide assistance, this outpouring of support can result in confusion and reams of paperwork for the victims. While many of the victims who lost a close family member or were injured or displaced by the tragic events of September 11th have completed extensive applications in seeking their initial emergency relief grants, there is no reason why they must be required to chase down and complete multitudes of different applications for dozens of different organizations in order to have their longer-term needs met.

Instead, I have urged the major charities to take the lead in developing a single, uniform application – available in as many languages as possible – that all organizations will accept. We must strive to make the application process as easy for the victims as we possibly can.

Importance of a Victims Database to the Charities' Coordination:

With over two hundred charities raising funds for September 11th relief, the challenge of coordinating this effort began eight weeks ago and will continue for many years to come. The charitable organizations that have tapped the reservoir of public generosity so successfully must now work together as never before to expedite assistance, avoid duplication of services, prevent fraud and ensure fairness in providing relief. This will not be an easy undertaking.

That is why I have recruited talented professionals from the private sector to create a victims database, which can maintain a private, secure listing of the grants that have been provided to victims and their families. Just last week, I announced a team of private firms, all of whom are providing services and products for this database effort on a *pro bono* basis. The team is coordinated by McKinsey & Company, and includes IBM, SilverStream Software, Qwest Communications and KPMG. I greatly appreciate the willingness of these entities to assist in this important effort.

My role in the creation of this database has been as a catalyst, setting forth the parameters and seeking to have the database up and running as quickly as possible. In particular, the database must include strict security measures to protect the privacy of the victims and their families from unauthorized disclosure.

This effort is modeled on a similar effort developed after the 1995 bombing of the Murrah Federal Building in Oklahoma City. I am grateful to the staff of Oklahoma City's charities, including the United Way and the Oklahoma City Community Foundation, for sharing their wisdom, expertise and experience to aid us in developing our database. Despite the magnitude of the tragedy in Oklahoma City, because most of the victims worked directly for the government and the number of families impacted was

smaller, the charities could meet around a table on a regular basis and work through the issues family-by-family. Their jointly-managed database served a crucial case management role, helping ensure both the integrity of the process and the equitable distribution of relief.

In contrast, the scale of the September 11th disaster – with thousands killed and tens of thousands suffering severe physical, emotional and economic losses – is much more vast. Our challenge is to find a way for the charities to work together smoothly and with the same sense of shared purpose as their Oklahoma City counterparts.

Over the past several weeks, many of the largest charitable organizations – including the American Red Cross, the Salvation Army, the September 11th Fund (the joint venture of United Way and the New York Community Trust) and Safe Horizon, which together account for approximately 80% of the charitable pledges – have agreed in principle to participate. These charities have acknowledged the need for the database, and indeed have expressed a desire to operate it themselves, rather than having it run by a government entity. It is important to emphasize, however, that the cooperation of the charities is essential to the success of the database, because only they have the information necessary to make it work, and the level of commitment varies among the many different charitable entities.

My office is still in the process of working with the charities to finalize the details of the database, which will become an essential component of their efforts to prevent duplication and fraud, and will also help them collectively reach and equitably serve the broadest range of victims. These are very important goals, and as a result I am pushing aggressively to get this database created as soon as possible. Congress similarly should

make clear that it is demanding a coordinated response to this tragedy, and should urge the charities to create the database quickly and utilize it to the fullest extent possible.

Obligation to the American Public:

The charities must recognize that they are only able to provide assistance because of the overwhelming generosity of the American people, and that the American people, in turn, expect to see that these funds are provided to those in need promptly and equitably. There have been several publicized cases of victims who have not been able to obtain needed relief, and unfortunately this has overshadowed the fact that tens of millions of dollars have already been provided to thousands of individuals.

One of the other lessons of Oklahoma City – where services are still being provided to victims more than six years after that tragic event – is that the needs of the victims for services and funds will continue for many years. This clearly will be true in the aftermath of the September 11 disaster as well, and thus programs must be carefully designed and funds prudently managed so they remain available to meet evolving needs. The charities cannot and should not spend all of the money immediately. A coordinated process by which the charities account for their progress will demonstrate that they are fulfilling their mission and remaining faithful to their public trust.

I am thus also urging each charity to publicize, on a regular basis, the amount of money it has received, detailing how much it has spent and identifying the purposes for which its funds have been targeted. My office has volunteered to collect and aggregate the data, and to place it on the www.wtcrelief.info website, so that updated information is readily available to the American people in a central location. Over the long term, I will work to expedite and improve the charities' disclosure of their programs, priorities and finances in other ways, to better inform and empower the donating public.

Vigilance Against Fraud and Abuse:

As if the challenges ahead were not enough, we have seen evidence of a few individuals whose commitments to charity are questionable at best. Some of these have sought to raise funds from the public, making references to September 11th, but with little assurance that the funds raised will in fact serve that goal. Likewise, a handful of unscrupulous individuals have falsely claimed a connection to the tragedy – a supposedly lost loved one, for example – and have sought to profit from the generosity of an unsuspecting public.

Thankfully, only a trickle of such fraud has emerged thus far. With the scale of this tragedy and the corresponding scale of the charitable outpouring, however, we must remain vigilant against fraud and waste if we are to preserve public confidence in the charities doing the work so desperately needed.

Our responsibility in government includes the obligation to move swiftly and aggressively to enforce the laws against those who mislead the donating public or defraud the charities trying to serve the real victims here, and there are ways that Congress and the state legislatures can help.

At the federal level, Congress should modify those provisions of the Internal Revenue Code that impede disclosures to state law enforcement authorities regarding IRS audits and enforcement actions, and should encourage greater disclosure of charitable fundraising practices. At the state level, I have recommended changes to New York State law to facilitate enforcement actions against those who engage in fraudulent charitable solicitations. Our existing law enforcement tools, together with the legislative and policy changes I have proposed, will better serve our goal of ensuring truthful solicitation and trustworthy distribution of funds.

Need for Ongoing Working Group:

Because of the unprecedented scope of the September 11 tragedy, the process of delivering aid to victims will be long and complex, and many problems will arise. As a result, I have called for the creation of a working group of the major charitable organizations and victims groups, as occurred in Oklahoma City, which can meet on a regular basis to address these problems as they occur. Indeed, I have been encouraged by the charities' efforts to develop their own working group during the past two weeks. This kind of focused collaboration is particularly crucial for the "retail" level charities, which are actually delivering cash assistance and services to individual beneficiaries.

Such a working group – which must include victim representatives – will be able to coordinate their relief effort, and discuss the many thorny issues that all charities are facing. For example, the charities:

- must balance the desire to provide assistance quickly against the need to keep funds in reserve to cover other future needs;
- must decide how to allocate funds among the many "survivors" of a single victim, which can include spouses, ex-spouses, children, grandchildren, domestic partners, parents, siblings and others;
- must also guard against the prospect of individuals who may try to defraud the charities (and thus defraud the public which has relied upon them to provide relief and not waste their donations on the undeserving); and
- must determine how to help undocumented aliens and other victims who are afraid to come forward.

There are no "right" answers here but, as the guardian of charitable assets in New York, I believe that it is essential for the charities and victims to sit down and coordinate their approach to these types of major issues. In addition, I believe that all of us – government officials, charities, victims and their advocates – will benefit from a structure

that can respond quickly when it becomes evident that a particular victim or category of victims has somehow been missed by the system and needs immediate help.

On balance, the charitable organizations have done an excellent job in responding to the events of September 11th. On behalf of all of us in New York, I wish to express our tremendous gratitude to all of the Americans, and indeed, people throughout the world, who have contributed to this remarkable relief effort. However, the charities must understand the importance of coordinating their response to the disaster without further delay.

Although each charity involved has its own unique mission, they must recognize that the events of September 11th demand a team response. Only through an ongoing cooperative effort can we possibly hope to ensure meaningful and sustained care for the victims of this terrible tragedy. This cooperation is essential if the charities are to earn and keep the confidence of the American people – faith not only in wise use of the donations raised for this crisis, but also faith in the integrity of our great tradition of private philanthropy.