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RESPONSE BY CHARITABLE ORGANIZATIONS TO THE RECENT TERRORIST ATTACKS

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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RESPONSE BY CHARITABLE ORGANIZATIONS TO THE RECENT TERRORIST ATTACKS

THURSDAY, NOVEMBER 8, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in room 1100 Longworth House Office Building, Hon. Amo Houghton (Chairman of the Subcommittee) presiding.

[The advisory, revised advisory, and revised #2 advisory follow:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
November 1, 2001
No. OV–7

CONTACT: (202) 225–3625

Houghton Announces Hearing on the Response by Charitable Organizations to the Recent Terrorist Attacks

Congressman Amo Houghton (R–NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the response by charitable organizations to the recent terrorist attacks. **The hearing will take place on Thursday, November 8, 2001, in room 2318 Rayburn House Office Building, beginning at 10:00 a.m.**

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include a representative from the Internal Revenue Service (IRS), the New York Attorney General, charitable organization watchdog groups, and leading charitable organizations. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

Since September 11th, many charitable organizations have taken action to raise funds and provide assistance to victims of the tragedies and their families. The American people have reached out through these charities by donating more than $1 billion to the relief efforts.

Charitable organizations are regulated both by the IRS and by State law. The IRS has implemented a process to provide speedy approval of the new groups seeking to provide assistance and has an ongoing responsibility to monitor the conduct of charitable organizations. Questions have been raised about the distribution of funds intended to assist those affected by the terrorist attacks. These include whether there should be coordination of the charitable response, whether applications for assistance are too cumbersome or duplicative, whether funds are flowing quickly enough to those in need, and what are appropriate uses of these funds by charities.

In announcing the hearing, Chairman Houghton stated: "I want to believe that if a person gives money to help another—through a charitable organization—that money should end up as quickly as possible in the hands of the one who needs it."

FOCUS OF THE HEARING:

The hearing will focus on the activities of charitable organizations in response to the recent terrorist attacks.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Due to the change in House mail policy, any person or organization wishing to submit a written statement for the printed record of the hearing should send it electronically to "*hearingclerks.waysandmeans@mail.house.gov*", along with a

fax copy to 202/225–2610 by the close of business, Monday, November 26, 2001. Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing should deliver their 200 copies to room B–317 Rayburn House Office Building, in an open and searchable package 48 hours before the hearing. The U.S. Capitol Police will refuse messenger deliveries to all House Office buildings.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record, or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. **Due to the change in House mail policy, all statements and any accompanying exhibits for printing must be submitted electronically to "*hearingclerks.waysandmeans@mail.house.gov*", along with a fax copy to 202/225–2610, in WordPerfect or MS Word format and MUST NOT exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "*http://waysandmeans.house.gov*".

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

*** * * NOTICE—CHANGE IN LOCATION * * ***

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
November 5, 2001
No. OV–7–Revised

CONTACT: (202) 225–7601

Change in Location for Subcommittee Hearing on the Response by Charitable Organizations to the Recent Terrorist Attacks

Congressman Amo Houghton (R–NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee hearing on the response by charitable organizations to the recent terrorist attacks, scheduled for Thursday, November 8, 2001, at 10:00 a.m., in room 2318 Rayburn House Office Building, **will now be held in the main Committee hearing room, 1100 Longworth House Office Building**.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Due to the change in House mail policy, any person or organization wishing to submit a written statement for the printed record of the hearing should send it electronically to "*hearingclerks.waysandmeans@mail.house.gov*", along with a fax copy to 202/225–2610, by the close of business, Monday, November 26, 2001. Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing should deliver their 200 copies to the Subcommittee on Oversight in room 1136 Longworth House Office Building, in an open and searchable package 48 hours before the hearing. The U.S. Capitol Police will refuse messenger deliveries to all House Office buildings.

All other details for the hearing remain the same. (See Subcommittee Advisory No. OV–7 released on November 1, 2001.)

*** * * NOTICE—CHANGE IN TIME * * ***

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
November 6, 2001
No. OV–7–Revised #2

CONTACT: (202) 225–7601

Change in Time for Subcommittee Hearing on the Response by Charitable Organizations to the Recent Terrorist Attacks

Congressman Amo Houghton (R–NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee hearing on the response by charitable organizations to the recent terrorist attacks, scheduled for Thursday, November 8, 2001, at 10:00 a.m., in the main Committee hearing room, 1100 Longworth House Office Building, **will be held instead at 9:30 a.m.**

All other details for the hearing remain the same. (See Subcommittee Advisory No. OV–7 dated November 1, 2001, and No. OV–7 Revised dated November 5, 2001.)

Chairman HOUGHTON. Good morning, everybody. Thank you very much for being at our meeting. As we all know, September 11th was an epic day for all of us, a tragic day. I know the members of this Committee join me in extending our sympathies and our abject feelings to the victims of terrorism and their families, and we will be talking about that. Now, America is strong and it is open and it is a loving Nation, and in the almost 2 months since September 11th, we and the rest of the world have witnessed firsthand an unbelievable bond of support. Americans have donated their time and their blood and have reached deep in their pockets to contribute over a billion dollars to help those people in trouble. C.S. Lewis, a favorite of mine, once said, "I do not believe one can settle how much we ought to give. I am afraid the only safe rule is to give more than we can spare. If our charities do not at all pinch us, I should say they are too small."

So although there is a difference of opinion, some people who are interested in the immediate versus those who are interested in the long term replenishment of funds, I would like to believe that if a person gives money to help another through a charitable organization at a particular time in a crisis, that money should end up as quickly as possible in the hands of those people who need it.

Now, charities serve as a vital conduit to make sure that aid comes to the rescue when and where it is needed most during a time of crisis. Today we will hear how the charities responding to recent attacks have provided assistance as well as what procedures are in place to insure that America's confidence in the charitable system will continue. So I look forward to hearing from our witnesses about the role of charities in providing relief to victims of the recent terrorist attacks, and I am now pleased to yield to our ranking Democrat, my friend, Mr. Coyne.

[The opening statement of Chairman Houghton follows:]

Opening Statement of the Hon. Amo Houghton, a Representative in Congress from the State of New York, and Chairman, Subcommittee on Oversight

Good morning. September 11th was a tragic day that changed our Nation—and our world—forever. I, and all the Members of this Subcommittee extend our deepest heartfelt sympathies to the victims of terrorism and their families.

America is a strong, spirited, and loving Nation. In the almost two months since September 11th, we—and the rest of the world—have witnessed first-hand an unbelievable American bond of support. Americans have donated their time and their blood, or have reached deep into their pockets to selflessly contribute over $1 billion to help their fellow man.

I am so proud of this outpouring of support, and I hope it will continue to flourish in the days, months, and years to come.

C.S. Lewis said, " I do not believe one can settle how much we ought to give. I am afraid the only safe rule is to give more than we can spare. If our charities do not at all pinch us, I should say they are too small."

I want to believe that if a person gives money to help another—through a charitable organization—that money should end up as quickly as possible in the hands of the one who needs it.

Charities serve as a vital conduit to make sure that aid comes to the rescue when and where it is needed most during a time of crisis. Today we will hear how the charities responding to the recent terrorist attacks have provided assistance, as well as what procedures are in place to ensure that America's confidence in the charitable system will continue.

I look forward to hearing from our witnesses about the role of charities in providing relief to victims of the recent terrorist attacks.

Mr. COYNE. Thank you very much, Mr. Chairman. The American public has donated over $1.4 billion to charities nationwide in response to the terrorist acts of September 11, 2001. This action illustrates our country's commitment to providing relief to the families of those killed or injured in the recent terrorist attacks in New York, Pennsylvania and Virginia. Donations at this level are unprecedented. Recently, legitimate questions have been raised about where the money is going and whether the victims and their families have access to the donated funds in a timely manner. We need to make sure that the money gets to the intended beneficiaries promptly.

The nearly 200 charities that have been set up and have set up relief programs, the States' charity offices and the Federal Government all have important roles in insuring effective management of the September 11th relief fund and their efforts on behalf of the victims. Obviously, there is a need to coordinate fundraising and relief efforts relating to September 11th. Our witnesses today will discuss these issues, and hopefully will provide us with the status report on the situation, and I want to thank Subcommittee Chairman Houghton for scheduling today's very, very important hearing. Thank you.

[The opening statement of Mr. Coyne follows:]

Opening Statement of the Hon. William J. Coyne, a Representative in Congress from the State of Pennsylvania

Mr. Chairman, the American public has donated over $1.4 billion to charities, nationwide, in response to the terrorist acts of September 11, 2001. This action illustrates our country's commitment to providing relief to the families of those killed or injured in the recent terrorist attacks in New York, Pennsylvania, and Virginia. Donations at this level are unprecedented.

Recently, legitimate questions have been raised about where the money is going and whether the victims and their families have access to the donated funds in a timely manner. We need to make sure that the money gets to the intended beneficiaries promptly.

The nearly 200 charities that have set up relief programs, the States' charity offices, and the Federal Government, all have important roles in insuring effective management of the September 11th relief effort. Obviously, there is a need to coordinate fundraising and relief efforts relating to September 11th.

Our witnesses today will discuss these issues and provide us with a status report on the situation.

I want to thank Subcommittee Chairman Houghton for scheduling today's important hearing.

Chairman HOUGHTON. Thank you very much, Mr. Coyne. Gentlemen, would you like to make an opening statement? J.D., would you like to start and then——

Mr. HAYWORTH. Mr. Chairman I want to thank you for allowing me to rejoin the Subcommittee for this hearing. As a former member of the Oversight Subcommittee, it is good to be back here on this dais under your leadership with your hand firmly on the gavel. And I know my friend from Florida and the ranking member from

New York join me in that sentiment. I would like to thank those who have taken the time to come here to help us understand better and make part of the public record their perspective on what has transpired.

Following the September 11th terrorist attacks, Americans lifted their generosity to new heights, contributing over a billion and a half dollars, or close to one and a half billion dollars to relief funds for victims and their families. Yet it soon became clear that there were serious problems with the distribution of these funds. Media reports suggest that of the almost one and a half billion dollars raised by charities, to date, only a small percentage, sadly, some estimate 10 percent or less of these funds have reached intended recipients. While the distribution of these funds is no doubt a complicated problem that defies simplistic solutions, it is equally true that many families are hurting and need help now. And sadly, they are not getting it. Countless Americans are asking why widows should have to beg for money from the charities that are supposed to be helping them. It is a good question, one that I hope we can help answer today.

Now there are lots of other difficult questions involved, many of which reflect a concern over how to balance the competing demands for speed and for fairness. They include the important questions of how to calculate economic and non-economic losses and how to determine which relatives will be entitled to submit a claim as the personal representative of the victim. Still, even with these challenges, from my perspective, it is clear that charities have not done enough to help the victims and the families of September 11.

However, it is also clear that the public spotlight from the media, most notably, Bill O'Reilly, and the prospect of these congressional hearings have already caused some movement in the right direction. Involved charities have agreed to participate in a database set up by the New York State attorney general (AG), who joins us here today. The American Red Cross, which initially suggested it might use some of the funds that it received for victims and their families for other purposes, has apparently decided to increase payments to affected people. Certainly more can and should be done to ensure that those who were supposed to be the beneficiaries of this unprecedented charitable outpouring will be supported through this extremely difficult time in their lives.

We have made some progress, and I look forward again to the testimony and to hearing ideas for what else can be done to speed the donations to those who need them. In the wake of the terrible tragedy, we have seen the blessings of compassion and the incredible outpouring of generosity from Americans that has been so unparalleled, and as yet, so much a part of our national character. We cannot afford to have that outpouring be eclipsed by challenges that would delay and confound that sense of generosity.

Again, I welcome the witnesses. I appreciate the fact that we are here, Mr. Chairman. I appreciate the opportunity to participate in today's hearing, and I would yield back the balance of my time.

[The opening statement of Mr. Hayworth follows:]

Opening Statement of the Hon. J.D. Hayworth, a Representative in Congress from the State of Arizona

Thank you, Mr. Chairman, for allowing me to participate in today's hearing. As a former member of the Oversight Subcommittee, it is a pleasure to be here. I commend you for your outstanding leadership in investigating whether charities that are supposed to help the victims of the 9/11 terrorist attacks on our Nation are actually fulfilling their mission.

Following the 9/11 terrorist attacks, Americans lifted their generosity to new heights, contributing over a billion dollars to relief funds for victims and their families. Yet it soon became clear that there were serious problems with the distribution of these funds.

Media reports suggest that of the over $1.2 billion raised by charities to date, only a small percentage—some estimate 10 percent or less—of those funds have reached the intended recipients. While the distribution of these funds is no doubt a complicated problem that defies simplistic solutions, it is equally true that many families are hurting and need help now. They are not getting it.

Countless Americans are asking why widows should have to beg for money from the charities that are supposed to be helping them. It's a good question, one I hope we can help answer today.

Now there are lots of other difficult questions involved, many of which reflect a concern over how to balance the competing demands for speed and fairness. They include the important questions of how to calculate economic and noneconomic losses and how to determine which relatives will be entitled to submit a claim as the "personal representative" of the victim.

Still, even with these challenges, from my perspective, it is clear that charities haven't done enough to help the victims and families of 9/11.

However, it is also clear that the public spotlight from the media, most notably Bill O'Reilly, and the prospect of congressional hearings have already caused some movement in the right direction. Involved charities have agreed to participate in a database set up by the New York Attorney General, who joins us here today. The Red Cross, which suggested it might use some of the funds that it received for victims and their families for other purposes, has apparently decided to increase payments to affected people.

Certainly, more can and should be done to ensure that those who were supposed to be the beneficiaries of this unprecedented charitable outpouring will be supported through this extremely difficult time in their lives. We have made some progress, and I look forward to the testimony and to hearing ideas for what else can be done to speed the donations to those who need them.

Thank you again, Mr. Chairman, for allowing me to participate in today's hearing, and I yield back the balance of my time.

Chairman HOUGHTON. Thank you. Mr. Foley, would you like to make a statement.

Mr. FOLEY. Thank you, Mr. Chairman. And I welcome the panelists today and thank them for coming to help explain to our community the future of the funds. But I want to read a letter that pretty much sets the tone for what I believe a lot of Americans are feeling. The headline—it is a letter to the editor of the USA Today: "Red Cross Handling of Funds Disappoints Donors. By selling ribbons, pins and other items, my coworkers and I helped raise $186,000, which we donated to the Red Cross Liberty Disaster Relief Fund. The total was matched by our employer, making our total donation nearly $375,000.

It disturbs me that the Red Cross intends to divert to general usage as much as $80 million of the money raised specifically for the victims of the September 11th terrorist attack. And we strongly urge the Red Cross to reconsider its decision. If the Red Cross cannot be trusted to use donations given to a specific fund for the purposes they were intended, then consider the money I donated to the

Liberty Disaster Relief Fund to be the last I ever give to the Red Cross."

Now, that kind of sums up the feeling and attitudes that we have to be very careful about. Your reputations are at stake. You have done phenomenal work in our communities, and I underscore I have contributed personally, been part of benefits for Red Cross, Salvation Army, and you name it in Palm Beach, Florida. But when you start hearing people make that kind of representation that it will be the last dollar they ever give, that is a horrific problem for us as a society, because we know government can't do it all and we know you are there for so many people at desperate times in their life.

And if we can't trust the basic entities that make that relief possible, and when we do say have another hurricane in Florida or earthquake somewhere else and the phones are silent, there is no one on the other end dialing those donations, then we have put ourselves in a horrific place. I do want to commend you because I think largely your efforts have helped remedy problems, family problems, giving counseling, grief counseling, providing relief for the community and being on the scene. So many groups went immediately to New York and to the Pentagon to be there for spiritual need, for familial need, for food, shelter and housing, and I commend you.

I also want to commend a group I typically don't single out, but that is the American Trial Lawyers Association for creating a lawyer care program that provides free legal advice to those filing claims with the September 11th compensation fund. Over 1,500 attorneys throughout the country volunteered to represent fund claimants through the process without a fee. Many of them have absolutely insisted there be no claims of action or liability suits against anyone involved with this tragedy. So I do commend them and want to place that in the record.

I also want to thank the Chairman, Mr. Houghton, for calling the Committee together to take part in what I think is an important step back to hopefully bringing credibility to all entities involved. This is huge money. This is phenomenal dollars that have been sent in by the constituents throughout the world, not just in America, but friends and allies have given a great deal to make America's pain subside as much as possible. So I look forward to the testimony and the inquiry today. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thanks very much Mr. Foley. Mrs. Thurman, we are delighted to have you here. You do not have a statement, or do you?

Mrs. THURMAN. Mr. Chairman, I don't. I think that what has been said has summed up many of our concerns. But I know that we would like to get to the witnesses so that we have the opportunity based on the observations that have been made, to question and certainly be able to get the responses from and to our own constituents, because we all have the same stories that have either been written about or talked about here today and quite frankly, some of us need to be able to go home and explain to our constituents because of the news or via this, they are hearing about it too, so we need to have some answers. So I look forward to your testi-

mony, and certainly the question-and-answer period of time. Thank you.

Chairman HOUGHTON. OK. Well, thanks very much. Well I would like to call the first panel. You are already sitting here.

I would like to introduce Mr. Michael Farley, who is vice president of the American Red Cross; Mr. Joshua Gotbaum, who is a new chief executive officer of the September 11th fund; and Colonel Tom Jones, the head of the National Community Relations Development Committee of the Salvation Army. I am going to ask you, Mr. Gotbaum, if you would start off, if it is all right with you gentlemen, because you have got to get a plane back to New York. So why don't you start your testimony.

STATEMENT OF JOSHUA GOTBAUM, CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, SEPTEMBER 11TH FUND, NEW YORK, NEW YORK

Mr. GOTBAUM. Mr. Chairman, you are enormously kind and I thank the Committee for its understanding. I am the, as Chairman Houghton notes, the newly appointed chief executive of the September 11th Fund. That fund is itself a joint venture created by the United Way of New York City and the New York Community Trust and one of my boards, that of the United Way, is meeting at noon in New York City.

So I thank the Committee for its forbearance and appreciate the opportunity to talk about how we are helping the victims of September 11th. And I think it is extremely important to start by noting that we all have the same goal in mind; that we are all motivated here by the desire to reach to the literally tens of thousands of victims of September 11th, because we view people not only that lost family members or lost their lives as victims, but those who lost their homes, those who lost their jobs as people who we need to find ways to support.

And their needs are different. But I think it is important that we recognize that their needs are real. I will be brief, Mr. Chairman, since I have submitted a prepared statement for the record, and with the Committee's forbearance, I would like to make that part of the record.

I would like to do, first, to talk a little bit about how the September 11th Fund works, because we operate somewhat differently from the American Red Cross and the Salvation Army. Like the New York Community Trust and the United Way that created us, we are an organization that takes contributions. We have actually received over a million contributions, totaling some $337 million in pledges. We have received already of those pledges about $275 million, and it is still coming in. We take those contributions and we find, choose and fund front line community-based organizations that deliver services.

So we are, ourselves, a relatively small organization. The reason we think millions of people trust us is, in part, because they trust the New York Community Trust and the United Way, and because we have experience with human service agencies, disaster relief agencies, et cetera, and we know which ones can deliver services quickly and effectively to people. Since September 11th, we have issued 80 grants, actually more than 80 grants; 80 grants as of a

couple of days ago, totaling $47 million to dozens of community-based organizations which themselves then provide a range of services to victims.

Immediate financial relief is obviously very important. That is the largest area of our contribution. We funded an organization called Safe Horizon which is on the pier, Pier 94, about which you will hear much more, has written over 16,000 checks to individual victims and families, to cover rent, mortgage, tuition, health care, whatever. We have also funded lawyers to provide legal assistance, because people need access to their bank accounts, access to wills, custody orders, and so forth.

We have also funded the Mental Health Association to provide referrals to the literally thousands of people who need grief counseling. We also think it is important and recognize that at this time, people are confused about where they can get help, and so one of the things that we have funded, again, through front line organizations in this case, one called Seedco and another, Safe Horizon, was a comprehensive guide to where and how people can get help. And our resource referral guide, not only is it used on the family assistance center at Pier 94, but it is also available online.

And we are also, this week, funding Safe Horizon to set up a hotline, staffed 24 hours a day, on a multi-lingual basis that refers people who need help, not just to Safe Horizon, but to the other organizations where they can get help. So we know that there has been a considerable uncertainty about where and how people can get help. We think that is an inevitable consequence of the fact that so many people want to help.

But we are working very hard in our early grants to make sure that people can get the help when they need it on an emergency basis. And that is really my first point for this Committee. We think we are meeting emergency needs. When people—we don't have an organized list yet, so we can't reach out to everybody who is there. But we have done everything possible so that when victims come forward, they get help and we have already distributed $47 million in grants to frontline organizations to do that.

My second point is that in order to meet longer term needs, and there are longer term needs, we are going necessarily to have to work with government and with other organizations. The September 11th Fund, I expect, will end up with about $300 million to give away. Three-hundred million dollars is an enormous amount of money, but it is not nearly enough to meet all of the needs of all of the victims that our donors believed should be helped. We are necessarily going to have to work with the Federal Government, which has been very generous with the airline fund and elsewhere with the other charities you see before you and others, so that we can fashion programs that meet the long-term needs of people.

This is not, and I want to be very clear to this Committee, this is not just an exercise in checkwriting. The task here, we feel, is to help people rebuild their lives. That means in addition to financial security, folks are going to need legal counseling and financial advice; they are going to need, in some cases, other kinds of guidance and therapy. They are going to need help with jobs and help with homes. That is something which we will provide. It is going

to have to be done working with other organizations. We are doing that.

My last point is I want to assure this Committee and the public that every penny contributed to the September 11th Fund goes to grants to help the victims of that disaster, their families and the affected communities. In setting up the September 11th Fund, the United Way of New York City and the New York Community Trust said we will raise administrative costs separately. We won't take the administrative costs of the September 11th Fund out of the September 11th Fund.

And so as a result, my salary, that of my staff is raised separately or donated by the New York Community Trust to the United Way, so that we can say for this fund, every penny will go to grants to help the victims, with not just financial security, although that is important, but the other needs that they have, whether they are mental health, trauma, jobs or homes.

With that, Mr. Chairman, I have already outstayed my time and I apologize. I look forward to answering the Committee's questions, because we think it is extremely important that these issues get aired. And the reason for that, if I may, get 20 seconds more, is because I will tell you as one who is relatively new to this effort, that the most gratifying thing about it is the extraordinary effort and contribution that the thousands of people who are helping are making.

And I—we know that there were heroes on September 11th. But I must tell you that the thousands of people from the Red Cross and from the Salvation Army and from the organizations we fund are, in my view, heroes every day, and I hope that the Committee and the public recognizes that they are working 24/7 to bring relief to the victims of that terrible disaster.

[The prepared statement of Mr. Gotbaum follows:]

Statement of Joshua Gotbaum, Chief Executive Officer and Executive Director, September 11th Fund, New York, New York

Good Morning. I am Joshua Gotbaum, CEO of the September 11th Fund. Thank you for holding this hearing on an issue that concerns us all: ensuring that we provide aid and support to the victims of September 11th, their families and affected communities. I would like to report on the Fund's activities to date and our plans for the future.

The September 11th Fund

Let me start by explaining who we are and how we work. The September 11th Fund was established by the United Way of New York City and the New York Community Trust to provide a way for millions to help meet the immediate and longer-term needs of victims, their families, and the communities affected by the terrorist attacks of September 11.

Both of these organizations have a long history of helping people help others. They do so by finding, choosing and funding nonprofit organizations and agencies with the expertise and ability to provide whatever help is needed. Using the expertise and experience of both organizations, the September 11th Fund was able to move quickly, making over 80 emergency grants to meet the broad array of needs that have arisen and will continue to arise as a result of the tragedies of September 11th.

Thus far, we have made a total of $47 million in grants—supporting agencies that provide cash assistance, legal counseling, grief therapy, job training and placement and other services for victims. We believe that we've made it possible for over 16,000 people to find and get the emergency help they need. However, the Fund must also help meet the longer-term needs of victims, their families and affected communities, and we are working with others to do just that. At the core, what every one of us wants is to help people and communities rebuild their lives.

To date, more than a million people and many corporations and foundations have pledged a total of $337 million to the September 11th Fund[1] More than $275 million has already been collected. Administrative costs of the Fund have been raised separately by the New York Community Trust and the United Way of NYC—therefore 100% of donations to the September 11th Fund will go directly to grants to help victims, their families and affected communities.

There are three points about the work that we are doing that I would like to make:

- First, immediate needs are being met in the fastest way possible, by experienced disaster relief agencies. Since the first tragic days of the attack, the September 11th Fund has been providing emergency grants to organizations directly serving immediate needs of victims and their families. We have made it possible for thousands of people to receive cash support, legal advice, grief counseling and other emergency services.
- Second, to address longer-term needs, the efforts of the September 11th Fund must be coordinated with other funders and service providers. Even though $300 million is a great deal of money, it is far from enough to meet all the needs of all of the victims of September 11th. In order to make sure that no one is left behind, we are working and will continue to work closely with the many government and private organizations: to meet the needs of all of the victims, to understand which institutions will provide help, and to see where we must act to "fill in the gaps".
- Third, every dollar raised by the September 11th Fund goes directly to grants to meet the needs of victims, their families and affected communities. We have raised all of the Fund's administrative costs separately. In addition, the Fund relies heavily on the knowledge and expertise of the United Way & the New York Community Trust, as well as other experts on loan from foundations and businesses.

Now, please allow me to detail the relief efforts of the September 11th Fund to date.

Meeting Emergency Needs

On September 11th, the United Way of New York City and the New York Community Trust created the September 11th Fund as a joint response to the terrorist attacks on America.

That very day, a Web site, *www.september11fund.org,* was created to accept online donations and describe the Fund's purpose and goals. Over the next three days, the Fund organizers hosted a series of meetings with disaster relief and other nonprofit agencies to anticipate emergency needs and coordinate efforts. We received our first grant proposal on September 19th (even before we had published a formal "Notice of Available Funds"). On September 22, eleven days after the tragedies occurred, Safe Horizon began distributing checks to victims using funding from the September 11th Fund.

In its first eight weeks, the September 11th Fund has reviewed and awarded 80 grants totaling $47 million to meet a range of emergency needs through established relief agencies. As a result:

- more than 16,000 checks have been written—most on the spot—to individual victims and families for rent, mortgage payments, utilities, tuition and other cash needs;
- more than 4,600 people have received crisis counseling;
- more than 2,000 adults and children, including 700 rescue workers, have received disaster mental health services;
- more than 1,000 people who have lost their jobs have met with career advisors;
- more than 500 children were counseled in bereavement groups;
- replacement ambulances and training were provided; and
- funeral expenses that were not covered elsewhere have been met.

In order to make sure people know what is available to them, we funded:

- a comprehensive resource referral guide for individuals, families, businesses and agencies seeking information and assistance on disaster relief. It is used at the Family Assistance Center and elsewhere and is available online as well;

[1] The Fund is made up of two funds—a general fund formed by the New York Community Trust and the United Way of New York City, and a fund from the national telethon, "Tribute to Heroes," that was broadcast on the major television networks. Both funds are intended to aid victims and their families; the general fund also is intended to support the communities affected by the September 11th attacks.

- toll-free hotlines for those who cannot travel to the Family Assistance Center or other offices in New York City; and
- efforts by groups in non-English speaking communities to publicize where and how to get help.

As with all established grant-making institutions, grant recipients must provide regular reports on the use of their funds, the results of their services, and financial accounting of their expenditures.

Meeting Longer-Term Needs

While our staff—composed primarily of individuals "donated" from the United Way of New York City and the New York Community Trust, as well as the Ford Foundation and others—responds to hundreds of proposals and meets with countless service providers and government agencies, we are simultaneously assessing longer-term needs.

There is no doubt that we are also expected by our donors to meet the long-term needs of victims, their families and affected communities. Of course, victims and their families need financial security, but checks alone are not enough. We know from Oklahoma City and elsewhere that families also frequently need legal and financial advice, grief counseling and help with jobs and homes. The real task is not, as Nancy Anthony of Oklahoma City so eloquently described it "just dividing the pie—it's helping people to rebuild their lives."

However, even a fund with the resources of the September 11th Fund cannot do so alone.

This brings me to my second point: longer-term assistance must be coordinated with government and other charities, to obtain the resources that will be required, and to ensure that the needs of victims, their families and communities, are met fairly and equitably. We think there will be little support for our efforts if the results are seen as unfair or if many are left behind.

To coordinate assistance efforts, the September 11th Fund was among the first supporters of a central database that would both make it easier for those in need to apply for assistance, and for charitable organizations to assess those needs and limit the duplication of efforts. Because we are mindful of the privacy rights of individuals, we are working closely with New York State Attorney General Eliot Spitzer and the front line providers of support to victims: the Red Cross, Safe Horizon, the Salvation Army, and others.

However, we do not think that victims' needs can or should wait for a database; our first priority is meeting emergency needs as soon as they arise. Even without a database, however, there is a remarkable amount of coordination taking place: Government agencies from the Federal, State and City governments work every day with the front line charities, such as the Red Cross, Safe Horizon and Salvation Army. They meet frequently to coordinate their programs and unplug bottlenecks. As an organization that helps fund these efforts, we are encouraging even greater coordination.

One of our major tasks in developing a program is to understand the range of people and institutions affected by this tragedy and their needs. None would argue that the family of someone who died, or someone who was severely injured shouldn't receive aid, but most of our donors also recognize the needs of those who lost their jobs, who lost their homes, or who have been traumatized as a result of helping out at Ground Zero or the Pentagon. Others have pointed out that September 11th also destroyed the homes of hundreds of nonprofits and small businesses.

Many of the needs of these victims can and will be provided for by others—by government programs or special purpose charities. Nonetheless, a traditional role for philanthropy is to help those who "fall through the cracks." For example, what about the second families of victims who are not eligible for government aid? And elderly parents who are not technically dependents, but who were receiving help with rent or mortgage payments? Should we not make sure that all victims receive help?

We must also recognize that some of these needs may not be apparent for quite some time. It may be months, sometimes even years, before a family realizes that they need counseling. As Dan Kurtenbach of the Resource Coordination Committee of Oklahoma City told us, "The majority of our work and our value to the community has been supporting long-term needs. You will not know what those needs are for at least a year." Given the magnitude of the shock that occurred on September 11th, we know that people will need help months and even years from now. We need to ensure that we provide adequate resources for these needs as they arise.

We are beginning the work necessary to develop this long-term program. We have already established a Board of Directors, drawing from the United Way, the New York Community Trust, the entertainment industry and others from business and

civic life. That Board is chaired by Franklin Thomas, former president of the Ford Foundation. We are hiring a small staff, and will continue to rely on the expertise of some of the best grantmakers in the country from the New York Community Trust, United Way, the Ford Foundation and others.

Over the next weeks and months we will make critical decisions about funding priorities, analyze the needs of those who are affected by the September 11th tragedy, and seek to meet those needs that are not being met by others. We will do so, as always, by providing grants to organizations with the expertise and ability to do so, as quickly, efficiently, and fairly as possible.

Since developing this program necessarily involves working with government agencies and other charities, and since some of these have not yet decided how they can and will help, the process will take some time. This is another reason we consider it so important to meet the emergency needs immediately. Our emergency grants are helping do so.

Preserving Contributions for Helping Victims

Now, for my third and final point: Every penny contributed to the September 11th Fund will go to grants to help the victims of September 11th, their families and affected communities. None of our administrative costs come out of the Fund. Instead, several foundations contributed funds specifically for this purpose.

The September 11th Fund is, by design, a lean organization that relies heavily on resources donated by the United Way of New York City, the New York Community Trust, and others. The September 11th Fund currently operates with a (tireless) staff of four. Thanks to the experts at the NY Community Trust, the United Way of New York City and others who are donating their time and expertise, grants that normally would take 4–6 months for approvals are being researched and awarded much more quickly, sometimes within one week. This is only possible because these staff members have years of experience in the nonprofit community, specifically funding emergency assistance and community needs.

Our distinguished board chairman, Franklin Thomas, and our board of directors, made up of leaders from the philanthropic, business and social service communities, are contributing their time, as well as resources from their institutions.

We are proud of the work that we have done to date, and are working energetically with others to develop a fair and effective response to the September 11th tragedies. We know that it is important that our program be accountable, both to the public and the millions of donors who have put their trust in us. We invite the Committee and the public to follow the decisions we make and the results that they generate through our Web site, *www.september11fund.org*, where we post information regularly.

In summary, the September 11th Fund is focusing on the needs of the victims, their families and the affected communities by providing funds to experienced frontline agencies for emergency needs. We will continue to support coordination efforts, and are working hard with others to develop programs for long-term needs that are effective, fair and leave no one behind.

About The September 11th Fund, The New York Community Trust and The United Way of New York City

The September 11th Fund, based in New York City, was established by the United Way of New York City and the New York Community Trust to help meet the immediate and longer-term needs of victims, their families, and communities affected by the terrorist attacks of September 11.

The New York Community Trust is the largest community foundation in the country, with assets of approximately $2 billion and more than 1,500 separate funds under management, some of which are donor-advised funds held by members of the New York City government and the United States Congress. Founded in 1924, its mission is unchanged: excellence in charitable giving. Thousands of grants are made by the Trust each year. In the year 2000, $145 million was disbursed, 70% in the New York metropolitan area.

The United Way of NYC is a volunteer-led organization dedicated to helping New York's most vulnerable citizens become and remain self-sufficient. UWNYC funds a network of the most effective health and human service nonprofits in the five boroughs; mobilizes collaborative efforts to address our community's most pressing needs and to help nonprofits achieve maximum impact.

Chairman HOUGHTON. Well, thanks very much. We have been joined on the platform by Mr. Rangel, Mr. Crowley and Mr. Hulshof and Mr. McInnis. Maybe we ought to ask questions of you now because you really do have to catch a plane to go back. So I will start—Bill, have you got a question you would like to ask?

Mr. COYNE. Thank you, Mr. Chairman. Mr. Gotbaum, you indicated that you have already disbursed $47 million.

Mr. GOTBAUM. In grants to frontline charities, yes, sir.

Mr. COYNE. What type of oversight do you think is necessary in making those grants to make sure that they are being spent in the proper way, and the way that you intended?

Mr. GOTBAUM. Part of the reason why we think people trust the September 11th Fund, Mr. Coyne, is because of the organizations that created us, and we are still using those organizations. I have, at the September 11th Fund proper, a staff of 4, and it will grow maybe to 6, 8, or 10. But it is a small staff. But we are relying on the grant making staffs of the New York Community Trust and the United Way. These are folks who have spent, in some cases, literally generations funding frontline charities.

That has two benefits. One is these are organizations that they know. They knew Safe Horizon existed; that Safe Horizon was already writing checks for victims of crime and so they could go to them and say, could you expand your operation by a factor of 10 so that we know we could write checks on the spot for victims. So part of it is they have worked with these organizations and they understand what their strengths are and how to provide oversight.

The second is that as a condition of every grant, we have appropriate financial controls. We require periodic reporting. In the case of Safe Horizon, which is my largest grantee right now, they have distributed almost $16 million of our money as checks to cover rent, tuition and so forth, they report to us literally every day on how many people they have helped, what the average check size is and how they are spending the money.

So we feel, Mr. Coyne, that that is part of the expertise of the organizations that we created. We vary the controls with each grant. Some organizations report—they all have to report on disbursements and they all have to give us accounted financials. Some of them have to give us those financials frequently. Some of them over a longer period of time, over time because it depends in part on how large the grant is and how long we expect people to use the money for. But obviously, we recognize the fact that people are trusting us with their contributions and we need to deliver on that trust by exercising oversight on the grants, and that is what we are doing.

Mr. COYNE. Thank you.

Chairman HOUGHTON. Very good. Mr. Hayworth would you like to ask a question?

Mr. HAYWORTH. Thank you, Mr. Chairman.

Mr. Gotbaum, as I was listening to your remarks, what struck me about this, and being joined on the dais by my friend from New York, who lost not only constituents, but family in the World Trade Center attack, I was struck by the fact that we are really a six-

degrees-of-separation society. Quite literally my neighbors across the street in Arizona have friends affected by this. Contributions are coming in nationwide, and so there is an interstate role and, some would maintain, a role for the Federal Government to play. You mentioned in passing, in your testimony, that there is a role for the Federal Government to play.

Some suggest, my friend, Mr. O'Reilly talks about a charity czar. Our colleague, Ben Gilman, I believe has drafted legislation dealing with a type of clearinghouse in some Federal role. What is your suggestion? What is the proper role of the Federal Government? Do you envision a legislative role for the Congress? Is there something that could help improve accountability across agencies as my friend, the ranking member mentioned, close to 200 charities are involved now? I think the count I have heard is about 160, so many people coming together in so many different ways. If it were up to you, what role should the Federal Government play in this situation?

Mr. GOTBAUM. Mr. Hayworth, you are right about the six-degrees-of-separation. Last night I went on the O'Reilly show and there was a woman there who had lost her husband with her child, and a group of her friends had sat at vigil at her house, consoling her after September 11th. One of those friends actually started work for me yesterday as a volunteer at the September 11th Fund, so you are right, it is very small. I am a veteran, sir, of the Office of Management and Budget, so I have actually spent considerable amount of time thinking through the questions of when and how the Federal Government can and should exercise oversight.

And I guess—and this is a personal view. I have not discussed this issue with my board, so accept it as just that. It is a personal view. I think the most important form of oversight that you can exercise is the form that you are exercising right now, which is shining the light and saying to folks, explain what you will do and explain what you are doing. We—this is the greatest disaster in American history. This is the most public charitable endeavor in American history, and it is, therefore, entirely appropriate that it be very, very public and very, very scrutinized.

I draw a distinction, though, Mr. Hayworth between that and exercising a new form of control or coordination. And I do that for really two reasons. One is that in my experience, and I have worked with the Federal Government a lot, it takes time for things to get organized. And although I can see arguments in favor of a charity czar, by the time that person were up and organized and had an organization and figured out what they were doing and had rules and regulations, because there will undoubtedly be rules and regulations OK, we would be 6 months or a year down the pike. And I don't think we have that luxury of time to figure out how to help the victims.

And so even though it is an imperfect solution to say shine the spotlight, hold people's feet to the fire, ask them what they are doing, I think that you are as likely by doing that, and forcing them to work cooperatively with the existing Federal agencies, with the Federal Emergency Management Agency (FEMA), and with the Airline Recovery Board, I think you are likely to get a better, faster result than you would get if you said I am going to legislate a char-

ity czar and empower him or her to do a lot. I just think that the red tape that they would create in doing that would undo all the good wishes that you would have in implementing.

Mr. HAYWORTH. Thank you, sir. Thank you, Mr. Chairman.

Chairman HOUGHTON. Yes. I think we ought to have a couple more questions for you, because then you have got to go. Mr. Rangel, would you like to ask a question?

Mr. RANGEL. No, Mr. Chairman. Thank you very much for the courtesy.

Chairman HOUGHTON. All right. Miss Thurman would you like to——

Mrs. THURMAN. Mr. Gotbaum, let me, first of all, when you—when Mr. Coyne asked his question about the $47 million, and you said that there had been 16,000 checks already cut, what of that 16,000 checks is that $47 billion or million? Is that all of it, or——

Mr. GOTBAUM. Oh, excuse me. Sorry. 16,000 checks totaling—actually, let me give you the—totaling just slightly more than $15 million because the checks are averaging $1,000 apiece.

Mrs. THURMAN. OK. And that is an important question, because, you know, one of the things that concerns me, and we have argued this in Washington on a couple of times, but I know a lot of the times the charities are set up to deal with people on a monthly basis, not necessarily a long-term basis. And what I am concerned about is that these people are trying to go about their everyday business, they are trying to, you know, either go to school, put their—make sure their children go to school, their mortgages are paid or whatever. Have you all thought in any terms about what I think a lot of people thought would happen, is some kind of a lump sum or something that pulls them through, because people don't want to keep coming back.

These are people that had been independent. They became a victim. They don't want to feel like they are getting a handout. They feel like people gave this money so they could get on with their lives. Can you share with us how that is happening? Because I think that is a very important part of what we are hearing.

Mr. GOTBAUM. Congresswoman, that is—let the record show I did not plant this question, but I am really glad it was asked. One of the—all of the organizations that worked immediately after the disaster have had to face up to the fact that this, in some respect, is a different kind of disaster and they have had to modify the way they operate and do business.

FEMA, for example, just to toot the horn of another organization that isn't here yet, FEMA, in order to give their rent subsidy program, used to say you had to get an eviction notice. You had to get a legal notice before they would help you cover your rent. And they have realized that is draconian and unnecessary, so what they did is they changed their own rules and said, no, just get any letter from your landlord that says you are late with your rent, including the first one, so that we know that there is some need. That was really their argument, and so they have made a change in that process.

Safe Horizon, which we have funded, and I have got to tell you that I am really enormously proud of that organization. I think they have done a really extraordinary job and are continuing to do

so, worked off the model that they had used, which was that model of the New York State Crime Victims Compensation Board. And that was a model in which people, yes, were expected to come back within 2 weeks or a month. What I have done is asked them to come in and actually it is going to happen, I believe, next week, and tell me how we could operate writing checks for the longer term so that we can not require people come back.

Mrs. THURMAN. So that has not happened?

Mr. GOTBAUM. That has not happened yet.

Mrs. THURMAN. But you are trying to set something in motion so that——

Mr. GOTBAUM. Absolutely. Because you are absolutely right. People don't want to feel that they are being run through an endless grind in order to get help.

Chairman HOUGHTON. Let me cut in here. Mr. Hulshof has a question he would like to ask.

Mr. HULSHOF. Mr. Gotbaum, really just one question. Let me first say I have a new found respect for someone of your position. My spouse just took a job as an executive director of a charitable foundation, and so all of the things that you are grappling with on a large scale really has been brought home to me in recent times.

I think, and not to belabor the point, others have said this, that September 11th, I think, brought out the true character of our Nation. We have seen the worst of times. We have seen the best of times where people who have never even gone to New York City before, loading up their pickup trucks, driving across country with loads of food or stuffed animals and the like.

A neighbor of mine, a retired composer who just donated a piece of work to try to raise funds for the victims in New York. But let me just—the question is this, I need your advice because with the recent revelations about some of the moneys maybe being diverted, I spoke to a group on Monday, 650 insurance agents who had collected—who had passed the hat and they charged me with the responsibility of taking that money and giving it and making sure that it got to victims. And I think that is probably a pretty good example of the mood of the country now, those that wish to contribute to donate or contributed and yet they are a little skeptical or hesitant perhaps. What advice would you give with this national audience, to those out there who wish to contribute but who may be a bit reluctant in light of recent news accounts?

Mr. GOTBAUM. Mr. Hulshof, thank you. To your wife, congratulations and condolences. The way we operate in the September 11th Fund is to say, as I mentioned in my testimony, all of the money contributed to that fund will go out as grants to organizations to help victims. Now, that is not just checks. And I think it is important for us to discuss that because this is—this has to be more than just a checkwriting exercise. We view the task, we view the reason that people entrusted us with their charitable contributions is that we are trying to help people rebuild their lives.

Financial security is an extremely important piece and no one would deny that. But, these folks are going to need legal counsel. They are, for many of them, going to need guidance and counsel, other kinds of guidance than traditional counseling. They are going to need help with schools and jobs and homes. And we feel that is

an essential part of the service. We think that is an essential part of why people trust the New York Community Trust and the United Way to provide help to victims.

So my first point is, a hundred cents of every dollar into the September 11th Fund goes to grants to provide services to victims. The second point is the question of whether or not organizations can and should reserve some funds for the next disaster, and here, frankly, I am going to—I want to say something affirmative about the Red Cross, because I—because I think it is important for this Committee, even as it asks questions to recognize how essential it is and how important it was that the Red Cross had an existing disaster fund before the disaster.

And on September 11th, the New York Community Trust and the United Way created September 11th Fund, started raising money, set up an organization, started talking to charities and less than about a week and a half later, made their first grant and that was great. OK. But on September 11th, the Red Cross delivered literally thousands of people to New York City and Washington and Pennsylvania to help. And the only reason they could do that, Mr. Hulshof, is because they had money in the bank. And so, I realize there is a question here of how you—how you deal with your donors and how you make sure that you are clear and that you are keeping faith with people. But I do hope the Committee does keep in mind that it is that reserving of resources for the next disaster that made it possible for them to help literally tens of thousands of people, and so that is the second point that I would make to your folks.

Chairman HOUGHTON. OK. Thanks very much. Good luck on your flight. Thank you very much.

Mr. GOTBAUM. Thank you very much. I appreciate——

Chairman HOUGHTON. Thank you very much for being with us. Now we will go on to the other witnesses. Mr. Farley of the Red Cross, would you like to testify and then go to the Salvation Army after that?

STATEMENT OF MICHAEL FARLEY, VICE PRESIDENT, CHAPTER FUNDRAISING, AMERICAN RED CROSS

Mr. FARLEY. Thank you, Mr. Chairman, and distinguished members of the Subcommittee. I would like to, if I could, share with you a few ideas about what the Red Cross has done with the funds it has received, answer questions you might have that will be evoked from that, and then answer a couple of questions based on some concerns that we know that have been shared with the current practices and approaches of the Red Cross in terms of the stewardship of the dollars that we have received.

But let me begin by saying, first of all, how overwhelming this event was for this country and for the American Red Cross. For us, it was managing 4 airline disasters, mobilizing 44,000 disaster workers, 43,000 of which were trained volunteers, serving millions of meals and trying to understand what was coming next. It was an incredibly challenging situation for us to respond to a disaster, the likes of which we have never seen before. We didn't really know what we were dealing with. Fortunately, we have had decades of the discipline of disaster response to get us on the ground, to get

us started. But frankly, once we were in the street working with the victims, it was a lot of innovation in the moment because that is what the situation required of us. And frankly, that is what our job is. In a disaster response situation. Also overwhelming was the outpouring of public support from the American people. To date we have received over $564 million that has been directed toward the recovery of this disaster. And I think the tone of this hearing was set very well by the quote from the newspaper, the letter to the editor, Congressman Hayworth's comment, the Chairman's comments.

This is serious business and it is about trust. And that is at the core of what makes the Red Cross successful, a successful partner of the government because we are a congressionally chartered institution to respond to disaster. And it is only successful because we enjoy the trust of the American public to do the right thing when the moment is there for us to respond. So that is something that we cherish. And if we are in any way considering criticisms or violation of that trust, I can assure you we take that very seriously because it will have a profound impact in our ability to respond in the future.

So we safeguard that trust very dearly. I would like to share with you four commitments, if you will, that the American Red Cross has in looking at specifically this tragedy. The first commitment is toward providing direct relief to the victims of this tragedy. Within 7 weeks, the American Red Cross has distributed over $120 million to more than 26,000 families in the form of direct cash disbursements and family grants. Of that, funds that we have currently expended and we have expended about $154 million today, 120 million of it is in distributing victim assistance to the families that have been affected by this tragedy.

The second commitment is one of accountability. In the early days of this tragedy, we realized that this was an extraordinary event, different from any other disaster we have experienced. It wasn't as tragic as earthquakes, floods, fires are. A terrorist attack is something of a totally different nature. We knew that the outpouring of public support that we received was specifically for our response to this tragedy. And so in recognition of that, we established the Liberty Fund, a separate account, not to be commingled with our usual disaster relief fund that we use to support the operations of disaster response in times of natural floods or other kinds of situations. Because we knew that these funds were, and the outpouring of support were of a very different kind. And so we wanted to be sensitive to that.

So we established the Liberty Fund to segregate those moneys from any other monies the Red Cross uses, either for general support of operations or for disaster response. In addition to that, we immediately engaged a third party external auditor, KPMG, to make sure that we had the accounting practices in place, and that we were advising our network of 1,050 chapters across the country to ensure that as they were the recipients of the outpouring of public support, they had the appropriate kinds of controls and accounting practices in place to manage and to store the resources that were pouring in from America.

And as we speak, we have a team of auditors working with chapters day-to-day to assist them in managing the contributions that they have received, using the reporting procedures that we have set up, and remitting the kinds of—the funds that have been received for this particular disaster in a transparent manner. And when we are through with the receipt of funds for this tragedy, there will be a full audit on how we did in managing those funds. In fact, we even post what we are doing, how much we have collected and how we have expended it on our public Web site.

The third commitment is one of collaboration. Once we have completed this first phase of response, I think we have a responsibility to look and work with our other fellow nonprofit organizations and public agencies to see how can we, together, create a safety net, if you will, for healing that endures after this initial period of response to the needs of the victims. I think clearly, the New York State Attorney General Eliot Spitzer has been a catalyst in trying to create collaborative activities among the various nonprofit organizations for the benefit of victim assistance. I think we need to look at where the gaps are in service delivery based on what each the nonprofit organizations provide, given their mission, and their competencies, and then look at opportunities and ways in which we might direct our resources and our talents to support the filling of those gaps to make sure that the needs of the victims are being addressed.

So it is a commitment to collaborate with our fellow nonprofit organizations and public agencies for the benefit of the victims of this tragedy. The fourth commitment is really one of alignment, aligning what we do and how we spend the funds that we have been given by the public with the donor intent, using the funds for which they were intended. And that is a very important issue for us because obviously, that is the basis upon which trust is built in the American Red Cross. So how are we going to insure that we are properly aligned with donor intent? There are several things that we have in place.

First, we are asking our donors how are we doing? Are we expending the funds you have given us in a way appropriate and consistent with what you understood to be their intended use? We are writing each of our donors in acknowledgment of their gifts to ask them, please tell us if we are aligned with what we should be doing with the intended purpose of your gift. We have our Board of Governors at the national level providing oversight into the use of the Liberty Fund to insure that not only is it accounted for properly, but it is being disbursed in a manner that is consistent with donor intent, and we are continuing to re-evaluate as the circumstances of this tragedy unfold, how do we best honor the intent of the donors and use the funds in a manner that is consistent with that.

One of the issues that has come up is, of course, direct support for victims. And I think all of us know that the work of the Red Cross goes beyond providing direct cash disbursements to victims. We also provide the kind of systemic operation that allows us to meet the needs of the victims. And to that purpose, we support the first responders. We have respite centers for the firefighters, the police officers, the emergency workers who are working on the pile every day, who need rest after their 12 hours on, 12 hours off shifts

day in and day out. And that will continue probably for a year, at least. We also have a responsibility of mobilizing our 44,000 disaster workers——

Chairman HOUGHTON. Could we try to finish this up?

Mr. FARLEY. Yes, I will. I would like to address one issue that has come up and that has been a concern expressed over the unexpended funds that we have collected. We spent 154,000. We have identified about 300—excuse me, 154 million. We have identified 300 million for disaster response purposes, and that leaves a balance of about $264 million. And the concern has been expressed what is going to be used for those funds? Will the Red Cross divert those funds away from victim assistance? I can tell you, without equivocation, that those funds, even though they are not earmarked for specific purposes, will all be directed to support the efforts that provide assistance to the victims.

And one final point, Mr. Chairman on that, and I will open this for questions. We have learned from decades of disaster response that the needs of victims emerge years after the tragedy occurs. Today we are dealing with 30 to 50 families from the Oklahoma City bombing who continue to have needs, and for that purpose, we are there working with those families, we anticipate that there will be needs in the future for which those funds must be distributed to be available for their recovery.

[The prepared statement of Mr. Farley follows:]

Statement of Michael Farley, Vice President, Chapter Fundraising, American Red Cross

Introduction

Within moments of the first plane tearing into the World Trade Center on that terrible morning of September 11th, 2001, the tragic events that transformed this Nation also began the largest disaster response in the history of the American Red Cross—our Nation's oldest, most experienced and most trusted humanitarian organization. None of us could have anticipated the scope of such an event, nor been fully prepared for the impact this would have on the lives and families of those affected. As always, the Red Cross immediately began providing emergency relief and emotional support to a Nation stunned by the brutality of an unprecedented attack on American soil.

Chartered by Congress in 1905 to maintain a system of national and international relief, it is the mission of the American Red Cross to help people prevent, prepare for and respond to emergencies. The Red Cross is an essential partner with federal response agencies during disasters through its lead role for mass care under the Federal Response Plan. Our primary focus is on the human needs of those affected, and we respond to both the physical and emotional devastation experienced by people during and after a disaster.

Immediate Response to the Events of September 11, 2001

In the initial hours following the attacks, we took the steps necessary to establish order out of chaos and support people whose world had just been torn apart—those in New York running from the collapsing Trade Towers, those at the Pentagon fleeing from the intense heat and flames, and those families urgently wanting to hear about loved ones whose planes never arrrived.

We do not wait for people to come to us, but reach out to find those in need. We have searched buildings around the World Trade Center to reach the elderly afraid to leave their apartments or whose health care workers were unable to get to them because of the perimeter surrounding ground zero. Our Air Incident Response Teams, always on immediate alert, were dispatched to each departure site and every scheduled arrival site for the four flights hijacked that day to reach out to the families of the victims. At the three disaster sites, we found firemen, police, emergency medical crews and responders of all sorts who needed water, food, a change of clothes, and a place to rest as they stayed at the scene searching for survivors.

Our foremost priority is to provide assistance for the victims and survivors of the disasters in New York, Pennsylvania and at the Pentagon—for however long it takes. As of today, we have:

- Helped more than 25,000 families who were displaced, injured or unemployed in the disaster-affected areas by providing food, lodging, clothing and counseling services. We are now under biological attack and are working with the families of those directly affected by anthrax.
- In the days following September 11th, Red Cross designed a Family Gift Program to cover 3 months of financial needs—rent, mortgages, childcare, and food—for families who lost breadwinners.
- We have served more than 10 million meals—an average of 100,000 per day—to survivors and emergency personnel working at the three disaster sites.
- Our mental health and spiritual care counselors have made more than 144,000 counseling contacts; 100,000 in the New York area alone.
- 46,000 disaster workers—43,000 of them volunteers—have been assigned to provide these services.
- In a time of tremendous uncertainty, we ensured that blood would be available wherever needed. We mobilized our national blood system to preposition stocks around the New York metropolitan area, to meet a need, which unfortunately never came, as there were few survivors.

Outpouring of Support by the American People

Just as this heinous act was unprecedented in its destruction, the response from the people of America is inspiring—people waiting hours in long lines to donate blood, flooding phone lines to volunteer their time in any way that was needed, and personally delivering financial contributions. The generous financial and in-kind assistance that the American Red Cross has received from individuals, companies, and foundations is unprecedented. It must be handled with utmost openness, accountability and integrity.

Therefore, we established the Liberty Relief Fund, a separate, segregated account that was created to hold and disburse funds to help people affected by the September 11th attacks, its aftermath, and other terrorist events that could occur in the near future.

We believe the establishment of this account is the best way to assure absolute transparency, clear accountability and demonstrate our commitment to donor intent.

Since September 11th, the Red Cross has received pledges and contributions totaling $564 million ($505 million received). To date, $154 million has been spent or committed, $120 million for direct assistance to 25,000 families in the form of cash and vouchered assistance to cover their emergency needs including food, clothing, and temporary shelter. Any remaining funds will be kept in the Liberty Relief Fund account to help victims as their needs arise in the weeks and months ahead. Newly appointed American Red Cross Interim CEO Harold Decker has asked for a top to bottom review of the Liberty Fund to ensure that the planned expenditures from these funds are consistent with donor intent.

The American Red Cross has responsibly disbursed $120 million, to 25,000 families in less than 8 weeks, unprecedented in the nonprofit world. Through our newly established Family Gift Program, we have spent or committed $47.9 million to help more than 2,300 families through direct financial assistance. We will continue to work with these families beyond the initial period to evaluate longer-term support needs. Our financial assistance is provided expeditiously through a simple one-page gift form, which is processed, promptly with checks issued overnight. The forms can be done by fax, phone or electronically, and are available through the Family Assistance Center and at other family assistance sites in New York City, or any one of our 1,000 chapters located in communities nationwide.

Again, we do not wait for families to contact us for assistance. Early in October, we placed advertisements in major newspapers appealing to families to come forward and receive assistance. We've also contacted employers of the World Trade Center, floor by floor, to reach out to their employees, searched hospital lists and the list of confirmed deceased. Forty Red Cross employees and volunteers are contacting families who might qualify for cash or other assistance. We've reached about 3,300 families, and the number grows daily.

Because this tragic event also injured and killed foreign nationals, the Red Cross is assisting the families of these individuals. The Red Cross international aid package includes: financial assistance for travel to and from the United States, lodging, meals, local transportation, crisis counseling, advocacy and referral with U.S. agencies, repatriation of remains, funeral expenses, tracing services, and information about embassies and consulates. We are being assisted by our partner Red Cross and Red Crescent societies the world over.

Legal Status and Oversight

The American Red Cross is a federal instrumentality chartered by Congress in 1905 to meet international treaty obligations of the United States Government under the Geneva Conventions. The Congressional Charter has mandated a procedure for Congressional and federal oversight of the activities and finances of the American Red Cross. The Department of Defense U.S. Army Audit Agency audits the work of the principal auditors, KPMG. DoD then transmits its annual report to Congress, along with Red Cross' audited financial statements, including KPMG's opinion. Consistent with its policy of transparency and full public accountability, the American Red Cross publishes an annual report, along with its audited financial statements, and posts these documents on its public Web site.

In order to fulfill our responsibilities under the Geneva Conventions, we are considered a federal instrumentality, and in many respects treated like a federal entity. As such, the American Red Cross is exempted from various state and local laws, including state and local taxation and state charitable registration requirements. The American Red Cross is also exempt from federal income tax under Section 501(c)(3). As a tax-exempt charitable organization, the American Red Cross is regulated by the Internal Revenue Service and files an annual IRS Form 990, which is also subject to public disclosure.

Following the September 11th attacks, the American people rushed to support our efforts with an *unprecedented* surge of generosity. In response, the Red Cross has put in place stringent accounting measures at both the National Headquarters and throughout our chapters to ensure stewardship of these funds. Our internal audit staff and KPMG, our external auditors, began reviewing and testing control processes and procedures for donations and disbursements the week following the terrorist attack. That testing continues. National Headquarters is engaging the corporate external auditor, KPMG, to begin testing immediately those contributions remitted to Headquarters, and have directed chapters to require the same of their auditors and independent CPAs.

Financial Stewardship

In order to ensure that all donations collected on behalf of the Red Cross are received and properly acknowledged for tax purposes, we have established formal agreements with groups and businesses that have helped to raise funds. A third-party group can conduct a fundraiser provided their local Red Cross chapter approves it and a signed letter of agreement has been received.

The American Red Cross and its online partners (aol.com, yahoo.com, paypal.com, libertyunites.com, and wellsfargo.com) accept credit card information only through a secure portal on a Web site, not through an e-mail message. When Internet scams have been detected, we have worked closely with the Federal Trade Commission and the Department of Justice, and taken aggressive steps to shut them down.

Symantec, an information technology security firm, retained by Red Cross notified us on October 17, 2001, about the Septer.Trojan computer virus for potential credit card donors. The virus came in the form of an executable file attached to an e-mail message that appears to come from the American Red Cross, United Way and the September 11th Fund. The American Red Cross Office of General Counsel contacted law enforcement authorities immediately about this fraudulent act.

Coordination of Relief Efforts

We typically lead and champion cooperation with other relief agencies to insure we don't duplicate efforts and to protect against any gaps in services. The Red Cross leadership and the Attorney General of New York, Eliot Spitzer, have been engaged in a constructive dialogue on a means of improving access to the vast disaster relief resources now marshaled to help the victims of the September 11th attacks. We are hopeful that a system will be established to enable disaster relief recipients to maximize the relief resources available to them. In addition, Mr. Decker has requested a review of potential steps to improve coordination between the Red Cross and other relief agencies that would benefit the individuals and victims' families.

The Road Ahead

The American Red Cross will be with the survivors and families affected by this tragedy for as long as it takes. Our decades of experience with disaster victims tell us that assistance will be needed for years to come. We need to ensure that the resources entrusted to us by the American people will be available to meet these future needs.

Family Assistance Centers were established for the loved ones of those lost in the World Trade Center and the Pentagon. The Center remains operating at full strength in New York City. A one-stop relief center, families can avail themselves

of the full breadth of Red Cross services in an environment where confidentiality, dignity and compassion are the hallmark attributes. We are committed to this outreach, and will work with those affected for years after this event.

In other ways, our work has just begun. The site of the World Trade Center, now called "The Pile", is emblematic of the work ahead and the human needs we will serve. There, work that is physically arduous, always dangerous and emotionally draining will continue for the next 9 to 12 months. Construction workers, firemen, police, and emergency medical technicians are not forgotten. We are operating special respite centers on-site. It is a place away from the noise and the dirt, where workers can come to find food, shelter, a change of clothes, a place to sleep, or to read a card written with special care from a child. This is a place to refresh the body and the spirit in order to go back, once again, to their work. This is another example of a new service for us, a service we adapted to the needs of those involved in this disaster.

We now find ourselves in the grip of a biological attack. We are assisting the families of those directly affected from anthrax exposure. We have offered immediate financial assistance through our Family Gift Program, and we are contacting 16 victims who are or have been hospitalized for anthrax. Further, because the current attack has understandably created public anxiety, we are reaching out to communities with public awareness and education materials. We will continue to develop these materials to address the community education requirements regarding biological and chemical agents.

Conclusion

The American Red Cross today is helping *tens of thousands* of people affected by acts of terrorism in the United States. We were among the first on the scene and we will be helping people for as long as it takes. We thank you Chairman Houghton and Representative Coyne for holding this timely and important hearing.

Chairman HOUGHTON. Thank you very much, Mr. Farley. Colonel Jones.

STATEMENT OF TOM JONES, LIEUTENANT COLONEL AND SECRETARY, NATIONAL COMMUNITY RELATIONS AND DEVELOPMENT, SALVATION ARMY, ALEXANDRIA, VIRGINIA

Mr. JONES. Thank you, Mr. Chairman. I am Lieutenant Colonel Tom Jones from the national headquarters of the Salvation Army. I am the national community relations and development secretary. I have been a Salvation Army officer for almost 40 years. And it is an honor to be here before you, ladies and gentlemen of this Committee, and talk about the Salvation Army's response to the September 11th disasters.

The Salvation Army was born serving the poor in 1865 in the slums of the east end of London, and now serves in 108 countries around the world. The Army invaded America, if you will, in 1880, and has been serving here for 121 years, meeting the needs of people all over this country. Today the Salvation Army has almost 10,000 centers of operation throughout the USA. Twenty years after we arrived in 1900, the Galveston floods immobilizes for the first time a national Salvation Army response with personnel all over the country, mobilized and sent to Galveston to help meet all the needs that were there.

On September 11th of this year we saw a new and unprecedented kind of disaster, certainly far greater and far different than what we experienced with the Oklahoma City bombing or Hurricane Andrew in Florida or the Midwest floods. Within an hour, Salvation Army personnel were on the scene in New York City at the World Trade Center and here at the Pentagon and were on their

way to the bomb crash, or to the plane crash, rather, in Pennsylvania.

You may be surprised to know that the Salvation Army does not operate or maintain a full-time national disaster operation or administrative staff. We have one Salvation Army officer, Major David Dahlberg, who is assigned as the national disaster coordinator. He responds along with local Salvation Army officers to disasters which happen on a local basis, and then the Army calls in whoever we need with volunteers or officers throughout the country. Local Salvation Army personnel take command and provide leadership when disaster strikes their community, and then we bring in other folk to help us.

But let me quickly get to the key points I think this Committee is interested in. Number one, how much money has the Salvation Army taken in? Contributions from the American public have totaled now slightly more than $60 million, and we have spent no dollars to raise those funds or on public relations. All of those funds have come in through voluntary contributions on our Web site or through the 1–800 Salvation Army number.

What oversight has been given the Army to correctly channel those funds? All Salvation Army funds have been deposited directly into Army bank accounts, which are subject to annual internal and external audit procedures. All Salvation Army operations, including disaster, are conducted under the oversight of Salvation Army officer personnel. But in addition, in every local community in this country where the Army conducts service, a local advisory board of prominent community leaders guides and helps the Army make its decisions.

Nationally, when a disaster like this happens, we turn to the National Advisory Board, made up of 42 prominent Americans. The current chairman is Donald Fites, the recently retired chief executive officer of Caterpillar. The immediate past chairman is Steven Reinemund, the chief executive officer of PepsiCo, and the incoming chairman is Edsel Ford of Ford Motor Company. The Disaster Services Committee on that board is chaired by Marilyn Quayle, and includes James Lee Witt, Robert Goodwin of Points of Light and Admiral Michael Kalleres.

Services, what is the Army doing? What have we been about in the last few months, the last 2 months? Well, the Army obviously was on the scene providing food and providing counseling, providing whatever was necessary, boots and handkerchiefs to the firefighters, the policeman and the rescue workers. We then began to provide financial assistance in the form of grants for rent, for mortgage payments, for utilities, for prescriptions and whatever else was needed.

When the FAA, Federal Aviation Administration, called down all the flights in this country, the Salvation Army interestingly found itself at airports all over the country providing food and counseling for people there and in many instances taking people to Salvation Army facilities where they spent the night or 2 or 3 nights, in one place in Kansas City a camp that housed 250 of them.

How much have we spent? To this point, $8½ million in direct cash grants. My friends in New York and in Washington tell me we are spending over $500,000 a week currently to help people,

with thousands of people coming in to Pier 94 to the Worth Center and to eight Salvation Army locations here in the Washington area.

We project spending every bit of the $60 million during the coming year to help people, and we will be on the job no matter how long it takes in the days to come. It is our intent that 100 percent of the funds that were designated for this disaster be spent to help people just as the donor wished.

Mr. Chairman, that provides you and the members of this Committee with just a brief snapshot of the Army's response to the September 11th disaster. Time does not permit sharing the hundreds of stories of lives being helped and changed, not only on the frontline at Ground Zero but at the morgue site at 1st and 30th in New York.

Let me thank you for giving us this opportunity of speaking before this Committee, and let me assure you that the Salvation Army considers it a sacred privilege to serve America in times like this. We pledge our continued support and cooperation in whatever way we can in the days to come for as long as it takes.

[The prepared statement of Mr. Jones follows:]

Statement of Tom Jones, Lieutenant Colonel and Secretary, National Community Relations and Development, Salvation Army, Alexandria, Virginia

The Salvation Army, founded in 1865 in the east end of London, first set foot on American soil in 1880. Eight Salvation Army officers, one man and seven women were sent by the Army's founder, General William Booth, to establish the ministry and service of the Salvation Army in America.

Twenty years later, September 8, 1900, the Salvation Army in the United States formally began its first national disaster response when a hurricane struck Galveston, Texas, killing over 5,000 people and virtually destroying the city. For the first time, the Army mobilized personnel, volunteers and resources throughout the country to provide prayer, emotional counsel and practical financial and material assistance. From that moment in time we have never looked back nor failed to immediately respond to any disaster, whether it be fire, flood, storm, earthquake or aviation. Today, we can add acts of terrorism to that list.

On September 11, 2001 this country was assaulted on numerous fronts. It began in New York City, just a few blocks away from our roots in Battery Park. From the moment of initial impact at the World Trade Center to the visible sighting of the plane going down in Somerset, Salvation Army personnel and volunteers began to mobilize and were on the scenes of disaster within 45 minutes in all three locations. While we have developed response procedures that are automatic for hurricanes and tornadoes, there is no blueprint for what we have been through over the past 57 days. And yet, the results have been rather remarkable.

It may be helpful for you to understand that The Salvation Army does not operate nor maintain a full-time national disaster response team or administrative staff. We have one Salvation Army officer designated as the National Disaster Services Coordinator and he represents The Salvation Army in a coordinating capacity with FEMA, the FAA and other disaster related non-profit organizations. Likewise, we have no national fundraising program designated specifically to disaster response. Whenever disaster strikes, we respond. We are entirely community based in that response and we remain community based in our fundraising initiatives. Local Salvation Army personnel take command and provide leadership when disaster strikes and when the public responds with financial support all monies are channeled directly to the point of need without administrative overhead. Our experience has always been to meet the immediate needs and the American public will usually respond in compassionate support.

We are aware that the key pieces of information you would like to leave with today are how much money has been given to The Salvation Army for this specific disaster response, how much has been spent and for what has it been spent. And then, you would like to know what our plans are for utilization of the balance of these funds.

I can report to you today that The Salvation Army has received $60,484,323 in contributions from the American public. No donated disaster funds have been spent

on fundraising or public relations expense for the disaster. Therefore, these funds have all been designated for disaster relief in either New York City, the greater Washington, DC area or Western Pennsylvania. It is our standing policy that all designated funds must be utilized fully as intended by the donor and as a result, the full amount of these funds will be collected from across the United States and channeled appropriately to the three primary disaster sites.

All Salvation Army disaster funds have been deposited directly into Salvation Army bank accounts, all of which are subject to both internal and external audit procedures conducted annually at every Salvation Army unit throughout the United States. All Salvation Army operations, including disaster, are conducted under the oversight of Salvation Army officer leadership. In addition, every local Salvation Army operation is supported by a local advisory board of prominent community leaders. Oversight to national Salvation Army operations is given by a national advisory board of 42 national leaders. The current chairman of the national advisory board is Donald V. Fites, retired CEO of Caterpillar Inc. The immediate past chairman is Steven S. Reinemund, CEO of PepsiCo and the incoming chairman is Edsel B. Ford II of Ford Motor Company. The disaster services committee of the national advisory board is lead by Marilyn Tucker Quayle, Robert K. Goodwin, James Lee Witt and Vice Admiral Michael P. Kalleres.

Obviously we are still aggressively working to address the immediate needs of those who have been impacted. There are many services being provided that are highly visible, such as feeding rescue workers, counseling distressed police and firemen, providing financial aid to thousands of families, but I wish to share with you a practical service we provided all across the country and throughout Canada on September 11, 12 and 13. You will recall the decision that was made to take all commercial planes out of the skies. They were ordered to land immediately at designated airports, leaving hundreds of thousands of passengers stranded in cities, never intended to visit. The Salvation Army in many of those cities went to airports and provided free meals, counseling and overnight housing for many stranded travelers. Properties that we normally use as summer camps for children, were instantly converted into safe shelter and housing for stranded passengers. We have a report from our friends in Canada of a small community in Newfoundland that tripled its population overnight with stranded air passengers and the Salvation Army became their primary source of food and lodging until they could complete their scheduled journey.

I would like to refer you to the financial and service report that you have been provided because it documents for you our delivery of service to date, as well as our projection of service through the year 2003. From that report you can easily see that we have served nearly 2 million people over the past eight weeks, and based upon the daily service levels still active in New York City I can assure you we have surpassed the 2 million mark as of this moment. Nearly 2.5 million meals have been delivered to rescue workers and volunteers and 55,000 individuals have received direct financial assistance for rent, utilities, food, housing and transportation.

In our efforts to coordinate with FEMA, the local municipalities and other response agencies, it seems that the major portion of our response will be focused upon displaced and unemployed families who have been described as "collateral victims." We will continue to assist those who are laboring daily at "ground zero" and we are committed to staying there as long as the City of New York, FEMA and the Medical Examiners Office need us. We will not depart until the job is done. But, our primary role now appears to be meeting the immediate financial needs of financially damaged families—the airlines' employees, hotel employees, small business employees, and those of numerous sectors—who have lost their jobs and means of income.

Once again, referring to the report we have provided you, of the $60.4 million contributed, we have spent $8.5 million on immediate needs. We have projected a budget for the balance of this year through the year 2003 amounting to an additional $53.7 million in direct assistance. As you can see it is our intent that 100% of all designated funds contributed will be directed to the community based command centers of New York City, New Jersey, Washington DC and Western Pennsylvania for a community led response. We envision that 20% of these funds will be spent on rescue and clean-up support at the disaster sites and the remaining 80% will be spent on direct financial aid to impacted families.

Mr. Chairman, that provides you and the esteemed members of this Committee a brief snapshot of the Salvation Army's response to the carnage of these terrorist strikes. It does not reveal the raw emotion of pain and fear and anguish that has altered many lives and our Nation. Time does not permit the sharing of hundreds upon hundreds of stories being told and lives being rescripted. But it simply identifies the commitment of Salvation Army officers and volunteers from communities in

every state of this great land who have responded and remain poised to further respond. We consider it a sacred privilege to serve America in this way and pledge our continued support and cooperation in whatever way we can.

Thank you.

The Salvation Army USA September 11th Disaster Report
Income/Expense Analysis As Of 11/05/01

Income by Location
Cash Received

Central Territory (11 Mid-America States)	$ 2,728,746
Eastern Territory (11 Northeastern States)	29,404,087
Southern Territory (15 Southern States)	7,599,352
Western Territory (13 Western States)	3,719,996
National Headquarters	17,032,142
Total All Cash and Pledges	$60,484,323

Expenses by Location
Specific Services Given

Eastern Territory (WTC/Pennsylvania): Disaster Site Rescue Services (Meals, Supplies, Equipment)	$ 2,900,954
Social Services to Impacted Families (Rent, Utilities, Mortgage, Transportation, Counseling)	3,641,646
Southern Territory (Pentagon/Northern Virginia): Disaster Site Rescue Services (Meals, Supplies, Equipment)	311,625
Social Services to Impacted Families (Rent, Utilities, Mortgage, Transportation, Counseling)	1,151,490
National Crisis Response (All States): Social Services to Impacted Families & Stranded Travelers	500,000
Total Expenses by Services Given (09/12/01–10/31/01)	$ 8,505,715
Income Less Expenses to Date	$51,978,608
Forecasted Expenses 11/01–12/03	$53,727,000
Forecasted Deficit After 2003	(1,748,392)

Projected Expense Analysis
26 months—November 2001 through December 2003

Forecasted Expenses by Location
November 2001 through December 2003

Eastern Territory:	2001 (Nov., Dec.)	2002 (12 months)	2003 (12 months)	Total (26 months)
World Trade Center Emergency Disaster Support	$ 4,000,000	$ 4,800,000	$	$ 8,800,000
New York City Social Services	5,827,000	12,000,000	5,000,000	22,827,000
New Jersey Social Services	2,000,000	4,000,000	1,500,000	7,500,000

Forecasted Expenses by Location
November 2001 through December 2003—Cont.

Eastern Territory:	2001 (Nov., Dec.)	2002 (12 months)	2003 (12 months)	Total (26 months)
Airline Survivor Family Services	500,000	250,000	100,000	850,000
Southern Territory:				
Pentagon/Reagan Airport Disaster Support	$ 250,000	$	$	$ 250,000
Greater DC Area Family Social Services	3,000,000	9,000,000	1,500,000	13,500,000
Total Forecasted Expenses	$15,577,000	$30,050,000	$8,100,000	$53,727,000

Actual Service Delivery Report
From September 11, 2001 through October 31, 2001

Meals Served at Disaster Sites	2,391,834
Mental Health/Social Services Counseling Contacts	54,786
Individuals Prayed With	155,783
Volunteers Involved	22,310
Volunteer Hours Given	721,898
SA Officers/Employees Involved	2,507
SA Officers Hours of Service	40,694
Unduplicated Units of Service	1,915,877

Chairman HOUGHTON. Thank you very much, Colonel. I would like to indicate that Ms. Dunn and Mr. Pomeroy and Mr. McNulty have joined us on the panel. I would like to ask Mr. Coyne if he'd like to inquire.

Mr. COYNE. Thank you, Mr. Chairman. Mr. Farley, in soliciting donations for the Liberty Fund, how specific were the solicitations in terms of types of relief that would be provided, who would get the relief and when the victims and their families would receive the relief?

Mr. FARLEY. In our public announcements about soliciting support for our relief activities, I believe the language we used was close to support will be directed toward the recovery of these victims and for the emerging needs of terrorist attacks, that resulted from these terrorist attacks. We did not have an inventory of services, that level of clarity. We did on October 12 issue a press release that did enumerate the kinds of services that the Red Cross was providing and assigned a projected cost for those services at that time.

Mr. COYNE. And in your solicitations, you never indicated when people would get the relief?

Mr. FARLEY. I think the message was that relief would be offered immediately. I know that in the case of the new program that we created, the Family Gift Program, it had an objective of a 48-hour turnaround. In some cases, we did it in 24 hours once we received a one-page form from the victim, in other cases it took longer. But the intent was that this would be provided immediately, both in terms of the needs of the victims as well as cash support.

Mr. COYNE. Has the Red Cross stopped soliciting funds for the Liberty Fund?

Mr. FARLEY. Yes, we have.

Mr. COYNE. Is that because you feel that you have enough money to do everything that needs to be done along with the other charities that are involved?

Mr. FARLEY. That is correct.

Mr. COYNE. Thank you.

Chairman HOUGHTON. Thanks. Mr. Hayworth.

Mr. HAYWORTH. Again, thanks to our witnesses, and, Mr. Farley, I want to thank you for coming forward today. Let me at the outset say that our reflection of response, indeed there was—I don't know how formalized it was, but Members of Congress went to many of their campaign contributors and said, we need to help in this effort, and personally we raised from supporters about $10,000 that we sent to the American Red Cross, because so many of us reflectively think of the Red Cross, the Salvation Army as signature charities, precisely because of the first response you mentioned in your testimony.

It is not my intent to blind side you with a question, Mr. Farley. I know that we are focusing on the September 11th tragedy, the unprecedented things that have happened there, but, again, as scrutiny has come nationally, I am in receipt of a letter from Dianne Jacob, who is the Second District supervisor in San Diego County, California. She points out another important date, September 12th, when the Red Cross responded to an audit in the wake of the Viejas fire that took place in San Diego.

The bottom line on this, and working with Dr. Healy and the Red Cross, Supervisor Jacob writes, and let me quote from her letter dealing with that Viejas fire and what went on in San Diego County, "It was disturbing to learn that out of $400,000 in donations, less than $25,000 has gone directly to victims." Skipping down and continuing, "Now this matter has gone on unresolved for over 10 months, and I can't help but wonder if the Red Cross can't manage a $400,000 problem, how can they manage a $550 million challenge?"

In your own statements today in terms of what has been raised, and I am not an auditor—I know that we have one accountant here on the dais from North Dakota, I can defer to him, and maybe he can check my math here—you said $154 million has been disbursed, $120 million directly to victims. The $34 million, does that go to what could be described as overhead? I know there are a lot of challenges. I know that you are dealing with a lot of different personnel, with volunteers, and I don't believe that to necessarily be sinister, of course, and I think we have to dispel that, but there

are significant questions of overhead in terms not only of the September 11th tragedy but what we are hearing about the Viejas fire according to Supervisor Jacob in San Diego County, California. Is the overhead a significant problem for you folks in terms of dealing with tragedies?

Mr. FARLEY. Congressman, you have raised several issues, and let me separate them out a bit, and then if I don't do a good enough job, please come back at me and we will try it again. With regard to San Diego, the San Diego chapter was in error in the way in which they administered their disaster relief operation, clearly, and we apologize for that. That is not the way we do business, and it is not acceptable. We have later on today a press conference that will be held that will be issuing an audit to the public about what occurred in San Diego in terms of the disaster response that was provided and in terms of the management of the funds for that relief operation, and there is an action plan noted in that audit with some outcomes that need to be achieved.

Now, I do not know the details of that situation, but I would be happy to provide the members of this Subcommittee with any details as they are forthcoming from that release of information, and hope that that would suffice the inquiry with regard to the San Diego issue.

Turning to the American Red Cross and the September 11th tragedy, I would like to report to you, Congressman, you asked, how are we spending the money beyond the $120 million, and I would like to share with you. One of that is overhead, and where do the other moneys go in that allotment? Of the $154 million that we have spent at this point, about $6 million could be identified as what you might call overhead or direct services and support of the relief operation. And let me describe two of those categories, if you will, so that you know what we are talking about.

When we deploy 44,000 disaster relief workers to Ground Zero sites, that requires of us obviously transportation costs and so on, expense fees for them to get from one place to the next. That is a part of that number. When we try to engage the victims to understand where they are and to get information to them, we create 1–800 call lines and staff them with people so that we can reach the victims and direct them to the kinds of services that they need for their recovery. That cost of setting up that call line and getting the people to staff it and run it and direct inquiries is a part of those costs. So that accounts for probably about 4 percent or so of the total cost of the operation that we have currently expended thus far.

So the question remains, what is left, and here is what is left. One of the items that we have expended funds on is to develop a strategic blood reserve, and let me explain why that has become an issue for the American Red Cross. As you may know, we provide about 50 percent of the country's blood supply. When we watched the planes hit the towers at the World Trade Center and saw the fireballs explode, the first thing that occurred to us is that we are going to have many burn victims as a result of this tragedy. We had a very narrow margin of blood on reserve at that time, about 3 days of reserve blood supply to support the blood needs of the entire country. What that cautioned us about is if we are going to be

under a terrorist attack and our country is going to be in need of blood product, we are incredibly vulnerable to be able to respond to the needs of blood across the country. So we directed some of our efforts, about $12 million of the $154 million to equip us to collect blood, because of the—as you—many of you have given blood, and we thank you for that, but to collect blood and then to store it so that it can be used and directed to the time and place that it is needed most. So that is—was the thinking behind that particular expenditure.

We also have a situation occurring in communities across the country, where our Red Cross chapters—we have 1,050 Red Cross chapters around the United States. Many of them had been getting calls from school administrators who were bringing their children into auditoriums saying, help us manage our children's fear, because they are looking at images of planes flying into buildings, and they don't—they think that they are being attacked. We needed to equip our chapters to manage these kinds of, if you will, mental health issues or counseling issues in communities across the country. And it is one of the many kinds of different victims that we have found when we endure a terrorist attack. So part of our resources, about $14 million, have been expended to support our chapters in terms of providing mental health services, setting up their own call lines to answer inquiries from people who are calling in to find out what was going on and a variety of other kinds of situations that occur in the areas.

So those are some use of the funds, Congressman, and if you would like more information about that, I would be happy to do my best.

Mr. HAYWORTH. Thank you very much, Mr. Farley. Thank you, Mr. Chairman.

Chairman HOUGHTON. You know, these are all very interesting questions, and we are deeply concerned of your comments, but I do think we have to keep within the time limits. We have got a vote now, but, Mr. Crowley, would you like to ask a question?

Mr. CROWLEY. Thank you, Mr. Chairman. Thank you first for allowing me to be here today and sitting on the panel. Aside from the—Mr. Farley, aside from the September—the Liberty Fund, which was established solely for September 11th, what has been the difference in terms of amount of contributions received by the Red Cross since the 11th to this date as opposed to last year or in comparison to last year? Do you know?

Mr. FARLEY. Congressman, I can't answer that with any specificity. Right now many of our chapters are in annual operating support campaigns in partnership with the United Way. The community campaigns are currently underway. In some cases, we have seen the contributions are down. In other cases, we have seen that they are tracking fairly closely for general operating purposes. But the jury is still out as to what the future might be for that.

Mr. CROWLEY. So my understanding is the segregated account is not going to be used for overhead. Is that correct?

Mr. FARLEY. That is correct. Any expenditures for the victim relief for the terrorist attack and the consequences that are forthcoming, those expenses will be supported by the Liberty Fund. Beyond that, we are not using general overhead expenses of the

American Red Cross. They are all directed to support the efforts of the victim relief.

Mr. CROWLEY. Thank you. As someone who sits here today who had a personal relationship with one of the victims, I should let you know that ahead of time that a first cousin was killed in the September 11th attacks. So some of this is somewhat personal to a degree, and many of us here on the panel at least knew someone or knew someone who knew someone who was killed on that day. I think part of the problem is that when we look at this is that we think of the 5,000 figure, or thereabouts, of people who were killed on that day, when in reality you are dealing with a much larger audience. Is that correct?

Mr. FARLEY. That is absolutely correct.

Mr. CROWLEY. So at least 25,000 people.

Mr. FARLEY. There are 25,000 families that have been affected, and, if I may, there are three categories of victims that received the initial first allotments of cash. The first were the families who suffered a loss of a family member. The second were families living in the impact area who were pushed out of their homes; about 25,000 people were left basically homeless as a result of that. And third is the economic disruption of the businesses around the impact area. Those three categories received the first infusion of cash support from the American Red Cross, but there is—as you heard, there is a ripple effect in terms of who is really the victim in this tragedy.

Mr. CROWLEY. Do you have—or your organization has stated that you have dispensed about $154 million as of today or have made commitments to spending $154 million of the $564 million. Is that correct?

Mr. FARLEY. Correct.

Mr. CROWLEY. You have stated as well—when I say you, the Red Cross has stated that the rest will be held for emerging needs. Could you describe for us what those emerging needs are? What is the definition of emerging needs?

Mr. FARLEY. Emerging needs are needs that we are not really aware of right now but will be known in the future, and I cite the example of our experience with Oklahoma City bombing victims. Six years from that event we are finding still families who have come to us, either new or continue to seek support, because of the disruption that they are finding. Second, who would have imagined anthrax? Those are the kinds of things that we need to be responsive to.

Mr. CROWLEY. The reason I ask that is because I think the Liberty Fund was created solely, or at least in my interpretation, for the events of September 11th and that that is where the people expected those dollars to be spent. I think generally the people who donated to that fund would have some question—maybe they would be in favor of the way in which you are going to expend those dollars, but I think for the most part they would all know that the September 11th fund was created for—or the Liberty Fund, as they saw it, was created for that specific event that day. Do you have—your organization has decided they will not partake in the establishment in New York or cooperation with New York's Attorney General in the database that he wishes to establish. Why is that?

Mr. FARLEY. Sir, that is incorrect. We will participate in the database. We are a partner with New York State Attorney General Spitzer to design how that best could occur. We are committed to be an equal partner in that process.

Mr. CROWLEY. And just one more comment, Mr. Chairman, and then I will give it back to you, is that as someone who is very close to this and who has been talking to my cousin's wife on a regular basis, one of the things that she has described to me that is very disconcerting to me, and I think the panel will also find this disconcerting, is that someone who has lived a very dignified life, who has had—lost a battalion chief in the Fire Department, for instance, now finds herself in a position where she is calling it glorified begging, for the lack of a better word, that she has to make application upon application to receive a great deal of the funds that she feels is owed to her to some degree, and she comes from a family that is going to take care of her. Her husband was a fireman, a battalion chief and the union is going to take care of her. She is going to have X amount of funds down the road, but it is the immediate needs they think she is having difficulty with, and I just want to share that, because you multiply that by 5,000, and that is what people are going through today.

I want to thank the gentleman for his time. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thanks very much. Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman. I come from a background of deep volunteerism, and so I have great respect for both your options. I worked on one of the panels, the allocation panels of United Way, I learned how great the Salvation Army is. Lieutenant Colonel Jones, we are grateful that you are here.

Mr. Farley, I wanted to ask you a question that has to do with your method of fundraising. In my background I have raised money for many, many different organizations, and in the way that those dollars are spent, sometimes the strength of the organization determines how the dollars are laid out. I know that you have many responsibilities besides providing direct aid, and sometimes the services you provide can be more valuable than the dollars directly.

I simply want to get to the integrity of the fundraising. Do you believe that your organization, as you began to raise dollars in those hours and days after the 11th of September, did so with integrity? For example, was there an implication left in some way that all the dollars would go directly in cash donations to families so that you would become a pass-through organization, or do you believe that you specifically said we are going to use these dollars in the best way we determine through the strengths of our organization are possible, including direct cash allocations?

Mr. FARLEY. It is the latter message, because the Red Cross in its solicitations and in its gift acknowledgments office cites a litany of things that we have done to respond to disaster recovery operations, number of people fed, mobilization of volunteers, in addition to cash disbursements, and so we have tried to really communicate that this is beyond simply a pass-through, that in fact the gifts received are for the support of the total mobilization effort to respond to victim needs.

Ms. DUNN. Thank you. I am looking for that. I think that is an important answer that you just gave. I would like each of you to respond to my second question, which is what are you doing in terms of planning for the next disaster? Is there—and are you using some of these funds that were donated to provide for the next disaster that very likely will be occurring very soon, because they happen all the time and both of you are engaged in them, but specifically things that could happen as a result of September 11th or tied to September 11th?

Lieutenant Colonel, why don't you start?

Mr. JONES. I will. Thank you. The Army is engaged in an ongoing training program for its personnel. We begin training them when they come out of our seminary, our training college in disaster work. We are also training our volunteers, but that money does not come out of this fund. The dollars that were given to the Army to spend on this disaster are being spent on this disaster. Certainly another disaster is going to happen, and we will be there to respond. We need to be ready.

Mr. FARLEY. Congresswoman, we are also preparing for the future. A year and a half prior to the terrorist attacks of September 11th, we have established in part because of the generosity of the public through a public Federal grant the Clara Barton Center, which is designed specifically to help train our personnel on how to respond to weapons of mass destruction. It is being operated out of an annual operating budget of the American Red Cross, not out of a disaster fund. And that is the site where we are trying to educate ourselves about what kinds of disciplines do we need to blend into our current array of disaster response competencies.

We are also in terms of preparation trying to communicate to the public as quickly as we can what are some of the biochemical agents that might be used in the future, how do you recognize them and how do you protect yourself from them, how do you look at situations, how do you work with children in dealing with children's fear. We are trying to build competencies and partnerships and perhaps even in some cases outsourcing of expertise to assist the American Red Cross to be ready for whatever comes next.

Ms. DUNN. Let me ask you one last question. The dollars that came in, the over $500 million that came in as a direct result of your fundraising after September 11th, I know that some of those dollars will go into your general fund. What I am interested in, will any of those dollars be spent for any activity of the Red Cross that doesn't directly relate to the items you just mentioned that relate to September 11th?

Mr. FARLEY. All of the items of—all of the uses of the funds that we received as a result of this tragedy will be directed for the activities that support victim recovery, and when I say that, I don't mean to suggest that they will be restricted to cash disbursements. They will be beyond that, but that is a very important clarification. None of those funds will be used for the general operations of the Red Cross. They will be used for the response requirements that this tragedy and other items as we learn in the future will require of us.

Ms. DUNN. Thank you, gentlemen. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you very much. Not very much time. Would you like to ask a question, Mr. Foley?

Mr. FOLEY. Yes, actually, I want to follow up a little bit, because that is still troubling that you are going to use some of this money for—such as $50 million for building blood inventories. Now, I understand there is a tragedy and a crisis, but the Red Cross is acting as if there are no other blood suppliers in the Nation, and I don't think your donors expected when they gave that money for you to start ramping up other aspects of your operation, and that goes again to correct. It is as if I asked somebody to donate to my campaign, a future campaign, and they gave me the money. And then I said, you know, I really don't have the stomach for this. I think I am going to go to Hawaii instead on vacation. And I take your money and I leave. And of course credibility then is shattered. I would never be able to go to the well again and ask for support. That is not going to happen, by the way, I state for the record.

But these are issues that I think go to the heart of your mission and that Red Cross stands for a lot in people's eyes. I mean, it is a phenomenal organization, but I think we have gone to a point where we are money drunk almost. There is so much coming into so many funds.

Local organizations that I support find themselves perplexed, because they are seeing their revenues dwindle, because everything is racing and rushing to assist the victim, and lo and behold, money is going to things that weren't contemplated by donors. And, again, that is why when with my opening statement—I wish Mr. Gotbaum was still here, because he said we have to use money to pay legal fees. I made a statement that the Academy of Trial Lawyers were donating their services, 1,500 lawyers donating their services. We said we need to pay lawyers. You are not going to keep free service for too long if there is a fee involved and they are allowed to pay it. Elaborate a little bit on that blood bank issue, because I do think it impacts some of your competitors in the blood market, the not-for-profit blood market.

Mr. FARLEY. Congressman, I don't know if you were in the chamber when we were speaking about that, but the origin of the idea for a blood reserve was prompted and accelerated by what we observed on September 11th with the crash of the planes into the buildings, the fireball of jet fuel and the victimization of burn victims which we anticipated. And tragically, there were not many survivors from that. It brought to mind how vulnerable we are, as we provide 50 percent of the country's blood supply, that we don't really have very much in reserve to respond to a tragedy that might require a massive amount of blood to save lives.

Mr. FOLEY. And let me underscore that. In my community, we typically have 500 pints a week in the blood bank, but the following 7 days we had over 7,000 pints. So it is not as if these people are not willing to come back and be donors again, but the problem remains that if we simply use these resources to do what we have always wanted to do, well, it starts stretching. Did you ever do a disclosure on any of your forms that some of them may be used for other purposes?

Mr. FARLEY. Yes, we did. In fact, on October 12th, we issued a press release, which itemized the uses of the—the intended uses of

the Liberty Fund and how much we anticipated that to cost, and——

Mr. FOLEY. But that was October 12th. I mean, September 11th, the 4 weeks of the most generous donation weeks in our history. So they were giving pre-October 11th. So what was the disclosure up until that point?

Mr. FARLEY. I would say that there was no itemization of what the services were in the early days of this tragedy, but I would like to return to your point, though, that I think that while one might argue these are all great ideas and purposes and noble intents for activities of organizations, they may not be appropriate for the Liberty Fund, because the Liberty Fund was given for a particular purpose, which is narrower than what is being proposed for it. And I would like to say that this entire issue is being reviewed currently by our board of Governors in consultation with our donors, and to determine whether or not are we out of step with what we believe the donor intent is.

Mr. FOLEY. Well, I hope so, because, again, I think the majority of people that I talked to that gave money said I gave it for victims and their families, not for community outreach, not for expanding blood banks, not for creating other programs that may be appropriate, but those have to be specifically requested by your groups.

Mr. FARLEY. I understand.

Mr. FOLEY. I better go vote. Thank you. Yield back.

Mr. HULSHOF. [Presiding.] Thank you, Mr. Foley. Let me follow up, Mr. Farley, on a question that Mr. Coyne asked earlier, and that was I think a statement that you made that the Liberty Fund, that you feel that sufficient moneys—donations have been collected for that Liberty Fund. Did I hear that part of your testimony correctly?

Mr. FARLEY. That is correct.

Mr. HULSHOF. What about the ongoing fundraising beyond your control? For instance, last week it was Halloween. I know that there were young people that were trick or treating for donations to go to perhaps the Liberty Fund. I know Mr. McInnis from Colorado who—we have got this vote going on, but young people selling ribbons for relief, ATM or automatic teller machines, and other solicitations. Again, for the Liberty Fund, what is the Red Cross to do if you get specific donations earmarked for the Liberty Fund to try to, as you said earlier, acknowledge and respect the donors' intent?

Mr. FARLEY. We have not proceeded with active fundraising with the Liberty Fund as of October 31st, but that is not to say that if a donor wishes to contribute to the Liberty Fund that we would not honor that intent. It would be placed in the Liberty Fund.

Mr. HULSHOF. Colonel Jones, let me ask you with really a tribute to the Salvation Army, because it is my understanding, and I think maybe in your testimony you indicated about 10 cents out of a dollar that is donated, only 10 cents, 10 percent are used for overhead. And I happen to know and believe that that is a small percentage of donations just being used to pay the bills, keep the lights on, computer terminals and the like. How do you, how does the Salvation Army successfully do this when other charities struggle to have that low overhead cost?

Mr. JONES. Well, it is not easy, but we have wonderful people, we have committed Salvation Army officers who have given their lives to the Army. We have 3.3 million volunteers in this country that we utilize to do all kinds of things, and we have 45,000 dedicated employees who probably work for a lot less than most other organizations, unfortunately. The Army has a long history of I think being frugal and conservative in its overhead, and we somehow manage to get the job done with the Lord's help.

Mr. HULSHOF. Is there any concern—I know as we get ready to go into the holiday season and everybody in our community recognizes the bell ringers that stand outside businesses. Is there any concern that because of this huge outpouring of support that we have seen over the last 7, 8 weeks, that that might curtail those necessary donations around the holiday period?

Mr. JONES. Well, that time of the year is certainly coming. I sometimes think people think the Salvation Army just mushrooms out of the ground on Thanksgiving Day with a kettle and a bell and goes to sleep at Groundhog's Day. But the truth of the business is we are in business 365 days of the year. What we have traditionally found, however, is that immediately after disaster, we found this in the case of Hurricane Andrew, for instance, that actually Christmas giving went up, because people were reminded and saw the work of the Salvation Army firsthand being done. However, in this disaster, which is, as we have said, unprecedented in both the scope of what happened and in the fundraising portion, there is some concern on the part of the Army as to whether there are still dollars in the hands of people who are going to give them.

Having said that, we have great faith in the generosity of the American people, who have supported and continue to support all the work of the Army, and we believe that they will continue to support us.

Mr. HULSHOF. Let me ask a final general question of either of you, if you choose to weigh in, and that is, as you know, Congress acted swiftly and created a special fund for compensation to those harmed by the attacks. Maybe, Mr. Farley, this might be appropriate for you. As grants or cash awards are provided, how do you see that working as far as that compensation fund that Congress has created? How do we make sure that we maintain the integrity, both of—from your point of view and from ours?

Mr. FARLEY. Congressman, we have not as an organization reviewed what would be the best complement of what we do to that resource that has been created. I would say, I think there are—some of the issues that come into play here obviously are when you have a variety of funding sources, the availability of one might influence the ability to tap the other, and I think that what comes into play is a casework discipline in working with victims to see what are the range of resources they have access to and how can we best leverage the resources from all sources to meet the needs of the victims. Specifically how we would fit into that and complement that, we haven't given it the thought that it needs, but we certainly will.

Mr. HULSHOF. Thank you. Mrs. Thurman.

Mrs. THURMAN. Thank you. I think the questions that I was actually going to ask are kind of based on what you just said. We

have heard from charitable organizations. We heard from the gentleman with the Liberty Fund, the Salvation Army, yourselves. We are going to hear from the Attorney General. And one thing in government that we always get in trouble about is when we don't coordinate things, and why doesn't the left hand know what the right hand is doing and the left foot and the right foot. And, you know, there is a lot of concern, and as I am adding up the amount of dollars that have been raised over the last couple of months, there is a tremendous amount of dollars out there.

How are we—and I will ask both of you this, because I think we really have to get a grip on this coordination of these services. Trial lawyers were mentioned earlier. You know, they have put a fund together to help victims. You have got different charitable organizations that we are giving money to within these areas. How are we going to coordinate these? How are we going to make this fair for all victims? I think the worst thing that could happen is one story be told that somebody got this amount, but this person over here didn't get this, didn't get this. They didn't get their child's tuition paid for, but somebody else did. Somebody's utility bill was paid for 1 month, but somebody else's was paid for 6 months. How are we going to coordinate this, and are we starting to put these steps in place?

I know that it has been a short period of time. I know you all have been under a lot of stress. I can't imagine the stories that you are hearing about on a day-to-day basis, but think that a lot of us are very concerned and probably we will hear these stories over and over again. So if you both could give me some ideas of what you think is going to happen in the future and particularly because of the Congressional hearings as well.

Mr. JONES. Cooperation and coordination is the name of the game. Well, the Army does that on a local basis with, for instance, clearinghouses at Christmastime to make sure somebody doesn't get helped by four organizations. We are used to doing that in local communities, and we also do it doing disaster. Our friends at the American Red Cross and other relief organizations we work with on a daily basis. Several weeks ago the National Commander of the Army went with the interim president of the United Way of America to Dr. Healy's office, and they talked about ways to be cooperative and coordinate our efforts in this disaster. You are right on target. It has to be done, and we are the ones who have to make it happen.

Mr. FARLEY. I think that there are several elements that need to be in place in order for coordination to work. One is you need to have a common holding of information about who is providing what kind of services. Second, you need to have a way of understanding what the victims' needs are. And then there needs to be some way of connecting those two pieces of information so that the benefit can be given to the victim in the best way possible in light of all the range of things that are available.

I think New York State Attorney General Eliot Spitzer has been the catalyst in looking at the very issue you raise, and I think there is a model that we all have been drawing from in Oklahoma City, trying to get an understanding on how do we better collaborate with one another, and I think we will be inventing new mech-

anisms to do a better job with this as we move into a second phase of responding to the victims. So I think the ideas are at play now. The solutions aren't there yet, but I think there is a commitment to create them.

Mrs. THURMAN. Let me just follow up that, because I think Lieutenant Colonel Jones mentions an important point, that they have been on the ground floor. They have been working with charitable organizations and/or agencies and departments throughout local communities. You know, it is a big umbrella out there, so if you say the Red Cross or the Salvation Army or whomever, and Mr. Gotbaum actually talked about the fact of this Horizon Group, what they had been doing with their money. How much are we seeing of the coordination, then, of those people on the ground within those departments and agencies that would generally try to give out this kind of aid? Are they involved in these everyday discussions as to how this is happening, how it might happen, but still taking away—I think something that I am also very concerned about is that this is a different type of situation where we don't get into—as Mr. Crowley said—this kind of begging that they are having to do or the continuing—I mean, but they do have a sense of how to get this money out, who to talk to and how to help, I think work through these problems, and I am just wondering are they involved in these conversations as well?

Mr. FARLEY. I believe—I know that they are, and in fact I wish my colleague from New York City, Bob Bender, who is the chapter executive there, who has been responsible for the first response to the World Trade Center tragedies, were here. He has a broad range of experience in interacting with agencies there. The Red Cross is one of many who participate in a family assistance center at the pier, where all the—many agencies are together in one place for families to go to a one-stop shopping for assistance, and while they don't share databases, they have resources available to families so that they don't have to run from one place to the next. So that is a start. There is a sensitivity there, but there is a long way to go.

Mrs. THURMAN. I just want to say, I know this has been a very tough time for all of you, and while I know there is a lot of fire going on up here and we are concerned because we are hearing from those that are giving as well as those who are in need, please take back to your volunteers and the people that you work with on an everyday basis that we appreciate the job they are doing and that we are here to help them, and that is why these hearings are taking place. Thank you.

Mr. JONES. Thank you.

Mr. HULSHOF. Mr. McNulty.

Mr. MCNULTY. Thank you, Mr. Chairman. Along those same lines, I want to thank both Mr. Farley and Colonel Jones for all of your good work. You are certainly shining examples of the fundamental principle that life is to give, not to take. I just have a brief question for Colonel Jones, and, Colonel Jones, if you answered this while I was over at the vote, just say so and I can look at the record. But you have a mechanism in place whereby when a donor gives you a contribution, they can direct it for a specific purpose?

Mr. JONES. That is correct.

Mr. MCNULTY. Now, what happens when you have got, for lack of a better word, a surplus in one particular category and you have a real need in another and you have a substantial deficit in that category? How do you deal with that?

Mr. JONES. It generally doesn't happen that we have a surplus, but you are absolutely right. Most of the donors that we have had in this disaster have designated the money to be spent, for instance, in New York at the World Trade Center or in Washington to help with the Pentagon disaster, and all of the checks we have are channeled to those two sites. We also get checks from people who say, spend this on this disaster, wherever, and the Army then has the leeway to say, do we need it more in New York, or do we need it more in Washington.

If dollars come in and the Army identifies needs, I am thinking of Hurricane Andrew which happened 9 years ago now, but I was in Florida when that happened. The Army stayed there for 3 years helping people rebuild homes in Homestead, for instance, and we bought a shopping center so we could give out building materials and had a volunteer village where Habitat for Humanity and other volunteers came in. And we ended up spending every bit of the $34 million that was given to us in real meaningful help to people.

So I guess the first answer is generally we don't have a surplus, but we do direct it to where it is needed if there is no direct designation.

Mr. MCNULTY. Well, I guess also within your answer you are basically saying there are a lot of people who don't specify it?

Mr. JONES. That is correct.

Mr. MCNULTY. So you do have some leeway, if you do have a crying need somewhere and you are not getting enough help there. Could you give me just a general breakdown, if you could, just if you have a general idea, of your overall contributions. How many, what percentage of them would be aimed at a specific purpose, and how many would just be a donation where people give you the money and just say do some good work with it?

Mr. JONES. Well, again, in Hurricane Andrew, most people said use this money for Hurricane Andrew victims in south Florida. In this disaster, we have had more than half who have said, I want this money used in New York, or I want it used in Washington. So I would say less than 50 percent have been undesignated, but still that is a substantial amount of money, a substantial dollar size. We have been able to put the money where it is needed.

Mr. MCNULTY. Thank you, Colonel. Thank you, Mr. Farley.

Chairman HOUGHTON. [Presiding.] Thanks, Mr. McNulty. Mr. McInnis.

Mr. MCINNIS. Thank you, Mr. Chairman. First of all, Colonel Jones, I think the job of the Salvation Army has been commendable, and I appreciate the efforts you have made in regards to this tragedy, but I also appreciate the efforts you make on a daily affair. With that, my questions really are directed at the Red Cross. A couple of questions—I will ask the questions very quickly, and then you can just answer them, if you wouldn't mind writing them down.

I don't know that I am using the exact language that you are using, so I would ask that you interpret my questions based on the

general intent and not some kind of semantic interpretation. First of all, in regards to interest on your earnings, I have allocated that you must have about $400 and some million, maybe $450 million in the bank. Certainly—and you may not use the term "interest." You may have income earned on assets or revenue, but you know what I am talking about, excess revenue—you may not be using the word "excess." I am trying to be very careful, because I want this question answered exactly. Do you consider the, for lack of a better term, interest earned on the revenue or assets you currently are holding as money that should be intended to go to those victims as well, or do you think that that is money that you can justify utilizing for other needs at the Red Cross?

Now, the second thing is it appears to me that the Red Cross has self-imposed—because although I am an attorney, I am not an attorney in this area, but I think I am good enough to look at the current laws that the Red Cross itself imposed upon their organization. Now, the confidentiality of not sharing lists of beneficiaries of these funds so that there is no way for other associations or organizations to coordinate whether or not people are getting double, triple or quadruple payments or whether or not fraud is taking place, certainly we know that the attraction for fraud exists out there. I saw a picture where they had a woman with a little thing around her neck in an EMT, Emergency Medical Technician, emergency medical uniform and then a fireman in a fake—both of them were standing together. You probably saw the picture, and they had perpetrated a fraud by stealing watches and things like that. I am very concerned about the fraud and the misuse of funds in that.

I want you to know that for my local communities, I come from a very wealthy district in some regards but a very poor district in other areas. I am very concerned that the Red Cross has not made the message clear out there that you are fully funded, and what I am concerned about, Colonel, is that when you ring bells at Christmas, you know, for local charities, for local needs, for our local cancer kids and so on, man, the money is evaporating. I want New York to be fully funded but when you are fully funded, I expect you to be as aggressive at getting that message out as you were at getting the message in, look, we have got enough.

Finally, the last question, do you coordinate what a person receives in other benefits? For example, lots of our local communities are raising money for the local firemen and the police. Frankly, the government employees are the best—outside of a few executives, the government employees are the best cared for because of the life insurance, continuing salary and so on. I am concerned about that window washer hanging from the side of the building who has no life insurance, and so forth. Do you take into consideration, look, these people are pretty well cared for, so we ought to put more of the money or an unproportioned amount of money to the people that are not properly cared for?

Thank you. If you would answer those, I would appreciate it. And I also want to tell you, for the good things you are doing, I commend you, and I appreciate that. I just want to make sure we are on course.

Mr. FARLEY. Thank you, Congressman. With regard to your first question concerning the interest, the interest generated from the

Liberty Fund will be put into the Liberty Fund, and only used for the purposes and intents of the Liberty Fund.

Mr. MCINNIS. Thank you.

Mr. FARLEY. It will not go toward general operating support for the Red Cross. It will be supporting activities for victim assistance.

Second, the confidentiality of victims is of high priority for us. We guard the confidentiality of those who come to us for aid. However, we do not intend to be a stumbling block in the good efforts that are underway to create a commonly shared database, and so we have pledged our full cooperation with New York State Attorney General Spitzer to be an equal partner in developing the guidelines that first of all ensure the confidentiality of our clients but, second, allow us to participate fully so that benefits could be extended to them. So this is not a block in the way of progress for that particular program.

Mr. MCINNIS. Thank you.

Mr. FARLEY. Third, clarity of message. We need to do a better job with that, and we are going to do a better job with our clarity of message, as well as due diligence in understanding exactly what our donors intended by asking them what did they intend based on what we are using the funds for. So we—and that is underway as we speak.

And fourth, the issue of coordination, and particularly in the issue of how benefits are disbursed to victims, if you could think of this in a two-phase moment. The first phase of the tragedy, we did not means test what people needed. We didn't care if the person had extraordinary affluence and was impacted or if they were a worker of modest means. We did not make those distinctions. We simply asked, what do you need for the first—for the next 3 months until you have access to other resources? That is what has characterized the Family Gift Program, for which we have distributed about $44 million to 2,300 families, and it also has characterized our behavior in disbursing the rest of the $120 million to 25,000 families and impacted people.

The second phase now comes into play, and that requires a little more diligence so that we can coordinate with others and make benefits available to people according to their needs at the time. And so what that will require of us, unlike the first phase, is looking at some kind of a casework methodology where we work with each victim, we understand with them what resources do they have available now in play and where are the gaps and how can the Red Cross be a player in helping meet those gaps based on what they need.

Mr. MCINNIS. And one final point in there. Do you incorporate within that formula self-help? Do the victims understand that at some point, to the extent they can, they have to get on their feet and——

Mr. FARLEY. I am sure that that is part of the conversation.

Mr. MCINNIS. Thank you. Thank you, Mr. Chairman.

Chairman HOUGHTON. Well, gentlemen, you have had a real going over. Thank you very much—oh, wait a minute. Mr. Pomeroy has got a couple questions.

Mr. POMEROY. Thank you, Mr. Chairman. You have an awesome responsibility. The outpouring of charitable response from the

American people represents I think the highest and best instincts of Americans in responding to tragedy. It would be a tragedy in and of itself if that faith of the American people in your abilities to handle their donated sums was shattered because you mishandled the funds in some way.

So far I see no indication that has occurred. I am concerned, however, that the coordination effort seems to be in the early stages and directed by the laudable efforts of the Attorney General rather than the charities themselves. Literally there was so much coming in in terms of donated support from the American people, it must have been the challenge of a lifetime in terms of trying to make certain that that was held and appropriately distributed.

What efforts were made within the charitable community to develop a coordinated response?

Mr. FARLEY. Congressman, we are convening with other responding agencies in New York, first of all, because that is where the focus of—the scale of the operation is so substantial, to answer that very question. What can we do to better integrate what we do so that the victims will be healed in the quickest way and——

Mr. POMEROY. Mr. Farley, we are almost 2 months after the attack. It just strikes me that this is something that would have been first week activity, not——

Mr. FARLEY. Well, that did occur in the first hours of the response, absolutely, but I understood your question to be particularly geared toward in the long term how do we ensure that we can integrate what we do together, and that is once we are out of the moment and begin to think a little further down the road, which is what we are doing now, we need to create some new mechanisms to create a better integrated system.

Mr. POMEROY. Just for an example, Colonel Jones, during these weeks, 44,000 family gifts administered by Red Cross. Would you be taking action to ascertain whether or not someone who has come to you has gone somewhere else or——

Mr. JONES. Absolutely. As Mr. Farley has said, at Pier 94 in New York, there is a giant clearinghouse of all the agencies, or most of the agencies there, certainly taking into account the Red Cross at this table, the Army at this table and other groups.

Another good example has happened at the Pentagon in the hours right after the plane struck there. The military asked the Salvation Army to coordinate the disaster feeding response, and we worked with the Red Cross, with the Baptist men who came in and set up a literal food court there so that you had—and Tyson's Food and McDonald's brought in food, and the Army helped coordinate that, and it was even called Camp Unity. And I saw a T-shirt, Mr. Farley, I don't know if you have seen it, which has the Red Cross on one sleeve and the Salvation Army shield on the other sleeve and Camp Unity down the front. So there was tremendous cooperation, I almost would say unprecedented cooperation, between the Army and the Red Cross at Camp Unity. I think that is happening, and it needs to continue to happen, Congressman.

Mr. POMEROY. Did someone come to you, Colonel, for a type of relief that maybe the Red Cross wasn't providing? Or how do you parcel out who does what?

Mr. JONES. That does happen. Some organizations are equipped at Pier 94, for instance, to give this kind of help, perhaps a mortgage payment, but not utilities or not prescriptions. And eventually, the Army at the end of the table is often the court of last resort, where if someone has fallen between the cracks cannot get help here, here or here, then the Salvation Army is there to say, we can do that and whatever your need is we will try to meet it. Yes.

Mr. POMEROY. How would you characterize the view that some might be trying to game the wonderful efforts that you are providing?

Mr. FARLEY. Those scams do occur. They have occurred on the Internet. They have occurred in other spontaneous fundraising activities where the individuals involved would use the brand of the organization, the pretext that they are raising funds on behalf of that organization and have not been.

Mr. POMEROY. Is that where most of the fraud would be, Mr. Farley, on the solicitation and not on the seeking benefits not deserved?

Mr. FARLEY. There has been fraud in both cases. We have—I am aware of one case reported to me in New York where an individual had claimed that they had lost family members in one of the towers when in fact they had not, and they are being prosecuted.

Mr. POMEROY. Thank you. I yield back, Mr. Chairman. Thank you.

Chairman HOUGHTON. Sorry to skip over you.

Mr. POMEROY. That is all right.

Chairman HOUGHTON. All right. Mr. Crowley, do you have a final question?

Mr. CROWLEY. Just one question, Mr. Chairman, and thank you again, and it is for either one of the gentlemen. There has been a great deal of discussion in recent days on capping the Federal awards for victims of September 11th in regards to how much they actually collect from charitable organizations. Can either one of you comment on positions of your organizations in relation to that?

Mr. FARLEY. Well, I think as I understand the question, as we continue to work with victims of this disaster, one of the things we will be doing is to understand what are the resources available to that victim and what is missing based on what their needs are, and then to adjust what we do to respond to their need. So it is with consideration of other resources that they may have available.

Mr. CROWLEY. Well, discussion of this end I think is from legislators who are saying that if charitable organizations give X amount of dollars to a family, that should be deducted from any Federal—whatever the master decides that family should get, and that is what I am asking, whether or not you think that should happen or not.

Mr. FARLEY. That question was raised earlier, Congressman, and my response to that is that is an issue that we are going to take up with our board to find out what would be the best complement of Red Cross input for that consideration.

Mr. CROWLEY. Thank you. Thank you very much.

Chairman HOUGHTON. Okay. Then I just have one final question. It has been my experience that many times the people who really

need help don't ask for it and whether it is through ignorance or because they are proud or whatever have you. How do you gentlemen in your organizations try to reach out and just say, we are here, we want to be of assistance to you?

Mr. FARLEY. Mr. Chairman, one of the things that the Red Cross did the first day of the tragedy is we have learned that there were many high-rise buildings with victims, elderly particularly, who weren't coming out and weren't seeking assistance, and so we assigned our staff to go door to door through all of those buildings, engage as many of those as we could in a 15, 20-minute conversation, which we would call a case, to learn what they needed and to try to move them forward into getting what they needed in that particular situation. In the administration of our Family Gift Program, where we have reached about 2,300 families, there were 500 families who did just as you described. They turned us down. They did not want the support that the Red Cross had offered. But what we find is that over the weeks and months ahead, people will be ready to step forward, some will anyway, and seek assistance, and what we need to be doing is to make sure that those resources are available for them, as well as to continue outreach casework in the days ahead.

Mr. FARLEY. Because oftentimes people are just not ready, emotionally, to step forward. But those needs are still there.

Chairman HOUGHTON. Thank you. Colonel.

Mr. JONES. You touched a real point, Mr. Chairman. There are many people who don't want charity and will not come. The Army experiences this in local communities throughout the year and especially at Christmastime. So Salvation Army officers go out and literally compel them to come in.

What was it Yogi Berra once said? If people don't want to come out to the ballpark, how are you going to stop them? That is a great, great quote, and the truth is, if some people don't want help, you have got a hard time giving it to them.

But the Army is committed to finding those people who really do need help and making sure those people get it. And frequently they don't come forward early. You are right.

Chairman HOUGHTON. Well, gentlemen, once again, thank you so much for being here and your testimony.

What I would like to do is to ask the second panel to come up. Mr. Miller is director of the Exempt Organizations Division of the Internal Revenue Service (IRS), and also the Honorable Eliot Spitzer—Eliot, we are delighted to have you here—the New York attorney general.

Mr. Spitzer, if you are ready, we would be honored to have your testimony.

STATEMENT OF THE HON. ELIOT SPITZER, NEW YORK ATTORNEY GENERAL, NEW YORK, NEW YORK

Mr. SPITZER. Yes, sir. Thank you very much for the invitation.

I have submitted to the Committee a full statement and, with the Chairman's permission, what I will do instead of reading it is move through some comments that I would like to make that I think will touch upon the highlights of what I think is most perti-

nent to your discussion today and then hopefully save some time for questions. With your permission, I will do that.

The first thing I would like to say is that your intervention in this matter is critical. It is only with the substantial oversight and attention of every level of government asking the hard questions that you are asking today of the charities that we will get the answers that we need to insure that the victims of that tragedy receive the aid and assistance to which they are entitled and that the public that has been so generous in its contributions gets what it deserves, which is straight answers from the charities about where the money is going and when it is going to get to the victims for whom we have contributed so much.

I would like to respond first to what is, I think, the single greatest issue that is being debated right now, which is the use of the very substantial funds that have been raised by the American Red Cross. I am personally very discomforted by the fact that we are hearing inconsistent and conflicting statements from the Red Cross about their intentions with respect to the Liberty Fund.

I was in Washington 2 days ago, sat next to Dr. Bernadine Healy, who is, I believe, still the chief executive officer or was until recently the president or the chief executive officer of the Red Cross, and heard her say that if approximately $200 million in the Liberty Fund was left over in 2 years then those funds would be reprogrammed, would be used for continuity of services, and then her language became similarly amorphous, ambiguous and unclear.

I share the concern that I have heard articulated from many of you this morning that those who gave to the Red Cross in the aftermath of September 11th intended unambiguously that those funds be used for the victims of September 11th. That is an obligation I believe the Red Cross has, if it is going to maintain the trust that it wants of the American public. If there is any ambiguity about this, then I think it is imperative that there will be investigation and inquiries that will delve into how the Red Cross is handling that money and why they have until today been so hesitant to give us a clear statement about where these funds are going to go.

We heard this morning and I saw in statements yesterday from the Red Cross reference to the possibility of letters being sent to those who donated to the Red Cross. That doesn't work. There are thousands if not millions of people who sent in $10, $5, $100, maybe $1,000,000 for some corporations. It is impossible now to return to those donors and inquire of them what was your intent, and I would maintain that it is indeed legally irrelevant.

What is relevant is what did they intend when they sent that money in. I believe the Red Cross understood what they intended. That intent was that this money go to the victims of September 11th, and I call upon the Red Cross unambiguously to state with clarity that that is where the money will go. Anything else will be a violation of the trust that the Red Cross owes to every one of us and, most importantly, to the donors who contributed in excess of $500 million the Red Cross has received.

I would also like to say that, in response to what I had heard from the Red Cross with respect to coordination, which is certainly one of the other critical issues, yes, we have received from the Red

Cross a statement that they will be our partner in generating the database that is essential, but I will tell you it has been a tortured process getting them to that point. It has been a process of two steps forward, one step back. It has been a process of legalisms being inserted into a discussion when there is an imperative that we move quickly.

Yes, the Red Cross said we need a waiver; and we said of course we can get a waiver. We will do that. But it is now 8 weeks after this disaster, and as of yet we do not have the acquiescence of the Red Cross to a process that should be simple. So I will state unambiguously my patience is running. I know your patience is running and the patience of the American public is running, and well it should. In 8 weeks, these issues should be resolved. They should be answered. I think that as the days go by our trust in the capacity of the Red Cross to handle these situations is diminishing.

I would indicate that while there is reference to—there were some questions about a disaster in San Diego, I believe, where there was some fair questioning about how the Red Cross responded and the percentage of the funds that were used for the appropriate purpose, there was also an audit that was done, an analysis by one of my colleagues, the attorney general, Skip Humphrey of Minnesota, I believe it was with respect to a 1998 disaster that found likewise that there had been a failure to use the funds properly, the failure to use the funds for the purposes for which they had been raised, and I think that this is an issue that demands our attention. I therefore am very appreciative that you, Mr. Chairman, have called this Committee together to raise these difficult questions.

Let me run through, if I might, very quickly a few areas where my office is trying to be proactive and help; and I will be very prompt because I know there are other witnesses and you have questions.

First, I agree with everything I have heard about the obligation that we make it easy for those who need aid to get that aid. We have done two things in that regard, and much more needs to be done.

One, we created a Web site which hopes to aggregate information about what the charities are doing—we have aggregated information about their purposes, how they define their own purposes. This is beneficial for victims so they can access this information and find out to whom they should apply, and likewise it is beneficial for donors so they can access that Web site and find out to whom they wish to contribute, based upon the purposes articulated by the charities. We have over 190 charities listed there with substantial information, the capacity to link to their Web sites and other information as well.

Secondarily, when it comes to the ease of victim applications, I have been encouraging the charities—and again I have no legal capacity to require them to do this—but encouraging them vehemently to come up with a single, uniform application process. It seems to me that we need to aggregate that information which the charities need, put it on one piece of paper, put it into every language, make it accessible online, reprint it in newspapers, circulate it so that, instead of the multiplicity of documents that victims

need to fill out, the dizzying array of documents that they are confronted with, let's make this easy.

Colleges have managed to, in many instances, create a uniform application form. There is a simplicity here that is called for, and we must move in that direction.

Next, in terms of coordinating the charitable effort, I referred briefly to the database. That database is critical. It is modeled after what was done in Oklahoma City several years back. I think anybody who studied the distribution of funds in Oklahoma City—and the scale of New York, of course, is exponentially larger—we know that that database was critical. We must get it up and running quickly. The urgency of doing so cannot be overstated, and we are at the point where statements of good intentions from the charities are simply inadequate. If they don't step up to the plate, contribute the data, make this happen very quickly, I will be sorely disappointed.

We have gotten some of the platinum names of corporate America. We have IBM, KPMG, SilverStream, McKinsey and Quest which are donating their services to create this database. They are poised to create it. They have the intellectual capability, the capacity to do it overnight if they are given the parameters of this database by the charities.

We are waiting with bated breath to hear from the charities every day what the specifics are. We are pushing them, encouraging them. If I had a cudgel to hit them over the head I would use it more aggressively, because my frustration level, as I hope you can see, is rising every day as we hear good intentions but fail to see the activity that is called for on their side.

There is also an obligation, third, for information to go to the public. I think that the charities that have received so much generosity from the American public should respond in kind to the public. They should file with my office on a monthly basis information with respect to how much money they have raised, how much money they have distributed, what the purposes are to which the money has been allocated. Because that sort of transparency, that sort of understanding is critical if the American public is going to maintain its trust in the not-for-profit sector.

Again, I cannot compel this, but it is critical, and I certainly hope the charities understand that their reputations are on the line.

Fourth, preventing fraud and abuse. You have asked a very important question about double-dipping, scams that may be perpetrated. We are poised here. We have specific jurisdiction. We will prosecute those cases, and we have begun to do so in those instances that we have discovered.

The good news is that, numerically, there have not been that many. The story thus far is an affirmative story of those who were trying to help, the generosity of the public and the outpouring of goodwill, rather than the outpouring of scam artists, although we are poised ready to address those scam artists who are there to try to take advantage.

Finally, long-term coordination is critical. We have assisted and the charities have cooperated—again, the intentions are there—in creating a working group of the leading charities. They are meeting

not as often as necessary, not with the degree of discussion, the depth of discussion that is appropriate, but the process has begun.

And I say that—not to cover for the charities, because, as you can see, I view my role now as being a critic and one to regulate and, if necessary, do much more, and we have the capacity to do more through subpoenas and investigations—but that process has begun. They have created a working group, and I applaud them for that. But, again, much more needs to be done to address and define longer term needs as they will emerge. Thank you, Your Honor.

[The prepared statement of Mr. Spitzer follows:]

Statement of the Hon. Eliot Spitzer, New York Attorney General, New York, New York

Chairman Houghton, Congressman Coyne 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 impacts of the events of September 11th are 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. In short, this disaster has presented us with an array of victims of unprecedented breadth.

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. Most importantly, 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. In particular, the indication by the American Red Cross that up to $260 million of the newly-established "Liberty Fund" will not be used directly for the victims of the September 11th attacks is unacceptable. Moreover, the funds should be distributed in an equitable manner, ensuring that no victim is left unassisted. Indeed, if the singularly important task of distributing aid 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 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 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 *to* 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 Web site for this information: www.wtcrelief.info.

This Web site—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 Web site also includes contact information and other guidelines, so that victims will find it easier to obtain relief.

The Web site 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 Web site (www.GuideStar.org), and in many instances can link directly to the charities' own Web sites to get more information or donate on-line.

The www.wtcrelief.info Web site 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 Web site 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 Hori-

zon, which together account for approximately 80% of the charitable pledges—have agreed 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 working 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 Web site, 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 go to the victims of that tragedy. 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 charities, 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. In its January 28, 2000 report entitled *Study of Present Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Restructuring and Reform Act of 1999*, the Joint Committee on Taxation recommended that Congress modify the provisions of Section 6103 of the Internal Revenue Code that impede IRS disclosure to state law enforcement authorities of information relating to tax-exempt organizations. I concur

with that recommendation, and believe that Congress should be required to make the disclosures now permitted by Section 6104, and those that would be permitted if Section 6103 is repealed or amended.

This change is needed because, at present, state charity regulators are not regularly informed of the outcome of matters that we refer to the IRS. In its report, the Joint Committee recommended that the IRS be authorized to provide state regulators with information concerning such enforcement matters. The IRS should not merely be "authorized" to make these disclosures, but should be directed to do so. In addition, the IRS should be required to inform states of other actions relating to the tax exempt organizations over which we have jurisdiction, including but not limited to audits and examinations, the imposition of intermediate sanctions, and revocations of tax exempt status. Such disclosures would greatly assist our efforts to enforce state laws governing charities, charitable assets, and public solicitations. My position on this issue is more fully set forth in a letter that my office sent to the Ways and Means Committee last year, a copy of which is attached.

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 the 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;
- 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;
- guard against the prospect of individuals who may try to defraud the charities (and thus defraud the public which has provided funding to the charities); and
- 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.

The charitable organizations have worked very hard to respond 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 maintain the confidence and faith of the American people—faith not only in wise use of the donations raised for this crisis, but also in the integrity of our great tradition of private philanthropy.

An attached letter was previously printed in Written Comments on Joint Committee on Taxation Disclosure Study, WMCP: 106–11, pages 74–77.

Chairman HOUGHTON. Thank you very much. Now, Mr. Miller, who is the director of the Exempt Organizations Division of the Internal Revenue Service.

STATEMENT OF STEVEN MILLER, DIRECTOR, EXEMPT ORGANIZATIONS, TAX EXEMPT/GOVERNMENT ENTITIES DIVISION, INTERNAL REVENUE SERVICE

Mr. MILLER. Thank you, Mr. Chairman.

I, too, would like to summarize my written statement, if I could.

Both before and after the tragic events of September 11th, the Internal Revenue Service worked to educate the public on how charities might qualify for tax-exempt status.

On September 18, 1 week after the attack, the IRS placed a new, easy-to-understand publication on our Web site which provided information to help the public make use of these organizations to help the victims of September 11th. We also announced that we would accelerate processing of tax-exempt applications for these organizations.

Since September 11th, we have approved 120 new exemption applications for disaster relief. I would stress that while we have put these organizations at the front of our line, we have not lowered the standards for exemption; that is, we are applying the same standards as we always have. Moreover, we take very seriously any information presented by the public or by law enforcement that the entities are engaged in fraud or otherwise failing to meet statutory requirements.

By way of background, the IRS comes into contact with disaster relief organizations primarily at two points in time. First is the application process and second is when they file their Form 990, which is the annual information return.

An organization initiates the application process by filing a detailed application with us in advance of its operations generally. We review the application to determine whether the organization meets certain statutory requirements. Key considerations include the following:

First, we consider whether the organization is serving charitable purposes. Under existing law, charitable purposes include providing relief to persons in a charitable class who are poor or distressed. The application must contain sufficient detail to demonstrate that the organization can meet its purposes in this regard. Victims of a disaster such as the September 11th tragedy clearly meet the charitable class requirements. However, being poor or distressed means more than being present at the scene. As a result, the charities must determine that the intended recipient is in need or in distress.

The second consideration in reviewing an application is whether the organization maintains control of its charitable program and, further, whether the assets are dedicated to charitable purposes. Thus, donors to the charity cannot designate specific individuals to receive their gifts. The charity must be in the position to make the decision as to the amount and who the gifts are going to.

If the organization is successful and we recognize it is tax-exempt, our continuing involvement with the organization may entail educational contacts, a review of their Form 990, and the possibility of an examination based upon their actual operations.

In terms of annual reporting on operations, the Form 990 is the information return filed by these organizations as well as other charitable organizations. In contrast to the application process, these returns are obviously filed on completed operations. The Form 990 serves as the primary basis for a decision as to whether a particular organization will be selected for examination.

Because the Form 990 is retrospective and because we concentrate on completed operations, the IRS does not usually involve itself in current day-to-day ongoing operations of a charity. That is generally left to the charity's board of directors. Indeed, in the disaster relief area, we are truly not in a position to assess the needs of individuals or the community, nor can we determine the priority of competing needs. This is the business of charity and of those who lead the charity, in our view. Those are members of the community.

What we have done since September 11th is to educate the public and recognize those organizations that meet statutory requirements. If in the future we determine that one or more of these organizations are not operating consistently with charitable purposes, we will revoke exemption.

We recognize that valid concerns exist as to how and when funds that have been raised will be spent here. I need to underscore that there is no obligation under the Internal Revenue Code that a tax-exempt organization be perfectly efficient. The applicable tax law standard is whether the funds collected are ultimately used for charitable purposes. These purposes include the payment of reasonable administrative expenses and the establishment of reasonable reserves. The method and timing by which the charity expends funds for proper purposes is left to the wide discretion of the charity.

We also recognize that valid concerns are being raised about appropriate coordination of the contributions to these funds. Recent experience suggests at least one effective approach exists for monitoring and coordinating these funds. Following the Oklahoma City bombing, the charities cooperated in a voluntary effort to insure that the victims' needs were met efficiently and without duplication. But we believe the Oklahoma City approach was effective, and we worked with the charities in that case to effectuate that.

I believe that Mr. Spitzer is considering exactly that in this case and the concept of a unifiable database to minimize duplication and enhance efficiencies; and, as we have stated, that did seem to work in the Oklahoma City situation.

Let me note the State of New York has one of the most active and competent State charity offices, and we have contacted Mr. Spitzer's office and are willing to offer any assistance that he may need.

In conclusion, following the events of September 11th we at the IRS stepped up our educational efforts. We provided guidance to those organizations seeking tax-exempt status and provided information to taxpayers contemplating making a donation to victims.

We are committed to working with the Subcommittee, charity officials, State law enforcement authorities and other interested parties to address any of the problems raised at today's hearings. We believe the American public deserves no less. Thank you.

[The prepared statement of Mr. Miller follows:]

Statement of Steven Miller, Director, Exempt Organizations, Tax Exempt/Government Entities Division, Internal Revenue Service

Introduction

Thank you, Mr. Chairman, for this opportunity to testify on the IRS review of charitable organizations providing relief to the families of the victims of the September 11 attacks upon our Nation. Like all Americans, the Administration is committed to ensuring that the donations made to these charities reach those hurt by the attacks and that the charities follow the letter and spirit of the law. The IRS is certainly available for consultation and we urge charities to request guidance as needed. However, we will also investigate and prosecute to the fullest extent violations of the tax laws in this area. We encourage the public to report any suspected anomalies and tax fraud to the IRS at 1–800–829–0433.

Before and after the tragic events of September 11, the IRS' Tax Exempt/Government Entities (TE/GE) Operating Division worked to educate the public on the legal requirements organizations must meet to qualify for tax-exempt charitable status.

On September 18, one week after the attack, the IRS placed a new, easy-to-understand publication on our Web site that provided information to help the public to make use of charitable organizations. We also announced that we would speed processing of requests for tax-exempt status from new charities formed to assist the victims. Let me stress, Mr. Chairman, that although we expedited the process, we did not lower our standards for new organizations applying for the tax-exempt status.

The new IRS publication—"Disaster Relief: Providing Assistance Through Charitable Organizations"—explained how to make contributions through existing charitable organizations and how new organizations can apply for, and receive, tax-exempt status. An advance text of that publication is available on our Web site at www.irs.gov.

To further help the public make an educated choice, we also maintain a readily available list of charitable organizations that are qualified to receive tax-deductible contributions. Publication 78 is available on our Web site as is a special supplement announcing the new tax-exempt charitable organizations formed to help the victims of the September 11 attacks. In addition, a potential contributor can call IRS Customer Service at 1–877–829–5500 to determine if an organization is qualified to accept tax deductible contributions.

Mr. Chairman, the IRS' review of the operations of a tax-exempt charitable organization is generally only available after the organization files its annual information return (Form 990). We do not receive any operational information, such as disbursements, from the charities prior to this time.

Nevertheless, we would take very seriously any information presented by the public or the law enforcement community, such as the state attorneys general, that a tax-exempt organization is engaged in fraud or is failing to meet the statutory requirements. We would take appropriate action that could include revoking of the organization's exemption and referral to IRS Criminal Investigation.

Background

The IRS comes into contact with disaster relief organizations at two points. The first is when the organizations apply for recognition of exemption; the second is when they file Form 990, the annual information return. Ongoing guidance is provided through educational material, such as plain language publications that are available to the general public and our annual Continuing Professional Education (CPE) course book that we provide to our agents, but that is publicly available and well known to tax practitioners.

We also provide information through workshops for smaller organizations and through speeches and participation on panels at practitioner conferences. We published a CPE article in 1999 that specifically addresses issues of importance to disaster relief charities. The IRS also provides speakers for Federal Emergency Management Agency sponsored workshops for non-governmental organizations that provide disaster relief.

And, as I mentioned, we quickly placed on our Web site after September 11 an advance text of "Disaster Relief: Providing Assistance Through Charitable Organizations," along with other disaster-related tax information. Now, we are also beginning

the process of corresponding with disaster relief charities to advise them of their responsibilities; offering to meet with them; and providing a single point of contact for assistance.

The Application Process

An organization initiates the application process by filing Form 1023, which is titled, "Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code." The application is often filed in advance of actual operations and can be based on representations about what the organization will do in the future.

We review the application to determine whether what the organization proposes to do satisfies the statutory requirements. In the case of the September 11 tragedy, and in light of national need, we created an expedited process for newly-established disaster relief charitable organizations to request IRS qualification. This expedited process was publicized in an IRS News Release and was placed on our web site.

Since September 11, we approved approximately 120 new exemption applications for disaster relief organizations. In addition, many existing charities established new disaster relief programs, which do not have to be separately approved by the IRS. Let me stress, Mr. Chairman, we achieved this result by dedicating special resources to these disaster relief applications. We did not lower the bar for our processing standards.

For example, we did not approve an application where a for-profit company, which intended to solicit contributions through a Web site in the name of the charitable applicant, had also established the organization and retained control over donations.

Mr. Chairman, the primary considerations during the application process are these. We first ask, "Is the organization serving charitable purposes?" Charitable purposes can be accomplished by providing relief to persons who are poor and/or distressed. Charitable organizations may provide charitable disaster relief in a variety of ways.

Some organizations offer immediate relief by providing emergency food, shelter, clothing, and crisis counseling, or medical attention to victims and dependents of victims. Other organizations offer longer-term relief for victims and dependents of victims, such as annuities, permanent housing, long-term counseling, or scholarships for children.

Whether providing immediate or long-term relief, a charitable organization must serve persons who belong to a charitable class. Victims of a Presidential-declared disaster, such as those in the September 11 tragedy, generally represent a charitable class.

We then ask the second question. "Does the organization control its charitable program?" The charitable organization must be in charge of its charitable program. Donors to the charity may not designate particular, pre-selected individuals as beneficiaries for their gifts.

If members of the public want to help particular individuals, they can simply give the money directly to the victims or through an organization that is not a qualified charity. Gifts given with disinterested generosity do not constitute taxable income to the recipients.

Finally, we must ask, "Is the charity providing assistance to persons who are poor or distressed?" Merely being present at the scene of a disaster does not establish a need for assistance. A person must be distressed or needy to be an appropriate beneficiary of a charity's assistance. An affected individual generally is not entitled to charitable funds without a showing of need.

Therefore, the IRS reviews the organization's application to determine whether it has adequate procedures, including specific criteria for the selection of recipients and the types of assistance to be awarded, to ensure that only persons who are appropriate objects of charity will be granted assistance.

Money collected even for a specific disaster must be distributed based on a determination by the charity that it is meeting the needs of disaster victims. The charity's funds cannot be distributed among the victims simply on a pro-rata basis because that method is not based on meeting individual victims' needs.

The IRS does ask that the organization obtain appropriate documentation when providing assistance to needy or distressed persons. The purpose of this documentation is to demonstrate that the organization's program cannot readily be used to serve private, as opposed to a public or charitable, interests. Immediate assistance may only require minimal documentation. Longer-term assistance typically requires more complete documentation, including evidence of a person's financial resources and the specific needs the organization's assistance is intended to address.

IRS Oversight

The filing of the annual information return, Form 990, requires the organization to document that in actual operations it adhered to the standards and procedures it said that it would use when its application was approved. In contrast to the application process, the Form 990 is retrospective. It is due approximately four and one-half months after the organization's accounting period ends, and the organization may apply for a 6-month extension. So, for example, the earliest information return reflecting any expense after September 11 would not be received at the IRS until the middle of February 2002.

The Form 990 can be used as the basis for an examination of the organization. The examination is based on actual, completed operations as opposed to the proposed activities that may serve as the basis for exemption when we initially review an application. The IRS does not usually involve itself in the day-to-day operations of a charitable organization, which are generally left to the charity's governing members.

Indeed, the IRS is not in a position to assess the needs of individuals or the community, nor to determine the priority of competing needs. This is the business of charity and the leaders of charity, i.e., members of the community. The IRS has never undertaken a directive or supervisory role of this nature.

What we are best at, and what we have done since September 11, is to educate the public and recognize organizations that meet certain requirements. These requirements focus generally on three points. First, are the organization's assets permanently dedicated to charitable purposes? Second, has the organization described its intended activities in sufficient detail to demonstrate that the organization is likely to accomplish its stated purpose? And third, does it appear that public and not private interests—which are impermissible—will be served? After recognition, our involvement with the organization generally entails additional educational contacts, the review of filed returns, and an examination based upon completed operations.

However, if upon review, we determine an organization is not operating consistently with its tax-exempt purpose, the IRS will revoke its exemption. Thereafter, the organization will be subject to federal income tax.

I want to underscore that there is no tax law obligation that an organization be perfectly efficient. The applicable tax law standard is whether the funds are ultimately used for charitable purposes. The method and timing by which this use occurs is left to the wide discretion of the charity. Inefficiency, without a corresponding finding of inurement, fraud or private benefit, is not a tax issue.

Role of the Public and the States in Oversight

Forms 990 are available to the public by request to the IRS, or the charity itself, or through independent Web sites, such as www.guidestar.org. The public, including the press, often plays a significant role in monitoring the activities of charities by inquiring into whether the charity is accomplishing the public purposes for which it was formed and for which it solicited contributions.

Mr. Chairman, when we receive inquiries from the public about whether a tax-exempt organization is operating consistently with its exemption, we evaluate the information and determine whether we should act to ensure continued compliance.

Continuing oversight of charities is also the responsibility of the states, which monitor their operations through their attorneys general as well as through other taxing and regulatory agencies. For example, a significant role of the state attorneys general is to ensure that charitable assets are not wasted and that abusive fundraising solicitations are investigated. The State of New York has one of the most active and competent state charity offices.

I want to be very clear that we are partners with the states in ensuring that charitable assets remain dedicated to charitable purposes. For example, if the IRS revokes the exemption of a charity, we are required to inform the appropriate state officials of this action so that they can protect the charitable assets.

We recognize that valid concerns are being raised concerning appropriate coordination of the funds that have been contributed to the September 11 disaster relief funds. Recent experience suggests that an effective approach exists for monitoring and coordinating the use of charitable relief funds. Following the Oklahoma City bombing, the charities providing relief to victims joined in a voluntary effort to ensure that the victims needs were met efficiently and without duplication. I believe that Mr. Spitzer, the Attorney General for the State of New York, is considering spearheading such an effort in this case, as well as creating a unified database to minimize duplication and enhance efficiencies. We believe the Oklahoma City approach was effective and should be considered here. In addition, while I do not have enough information to speak to the unified database, it too seems worthy of study.

Mr. Spitzer's position carries considerable authority. As mentioned, state attorneys general have statutory jurisdiction over the charitable assets of these organizations; and responsibility for overseeing the fiduciary relationship between the board and the assets, and over the fundraising activities of charities and local needs. These offices also have considerably closer relations with local charities. We have contacted Mr. Spitzer's office and offered any assistance or resources necessary.

Conclusion

Mr. Chairman, in conclusion, following the events of September 11, we at the IRS stepped up our education efforts on behalf of charitable organizations. We provided guidance to those organizations seeking charitable tax-exempt status as well as information to taxpayers contemplating making a donation to the victims. However, the IRS does not usually involve itself in the current, day-to-day operations of a charitable organization. Historically, this is a role best carried out by the charity's management and the state attorneys general. Nevertheless, we are committed to working with the Subcommittee, charity officials, state law enforcement authorities, and other interested parties to address any of the problems raised at today's hearing. The victims of the September 11 attacks and the American people deserve no less.

Chairman HOUGHTON. Thank you very much. Mr. Coyne, if you would like to inquire.

Mr. COYNE. Thank you, Mr. Chairman.

General Spitzer, you heard—or may have heard—earlier Mr. Farley from the Red Cross indicate that they have stopped collecting funds for the Liberty Fund. And I was wondering, based on your experience so far in this issue, whether you think that is advisable to do, or do you have any sense about whether or not it is going to take more funding to cover the expenses of this disaster?

Mr. SPITZER. Well, let me answer that this way. I don't think it is my position to tell them to collect more or less. I think it is appropriate for me, however, to say to them that, once you have collected the excess of $560 million that are now in the coffers or have in aggregate been in the coffers of the Liberty Fund, it is appropriate for me as the representative of the public, enforcer of charities laws in New York State, to require that those funds be spent in pursuit of the intent of those who gave those funds.

That sounds like legalese. It really means people gave thinking those funds were going to benefit the victims. You have got to use those funds to benefit the victims and not future contingencies, not amorphous issues that may arise in the future.

I do not believe that $560 million in aggregate will come anywhere close to dealing with the needs of the victims of September 11th. I think that we all know as we sit here that Congress created, and I thought it was a spectacular move, a benefit fund that will be administered by the U.S. Department of Justice. I thought that was a wonderful move forward to facilitate the flow of funds to victims. So, in aggregate, the fund that will be needed to ease the transition back for victims far exceeds the $560 million that is in this Liberty Fund.

Having said that, if the Red Cross believes that that is the amount that it can appropriately control and handle and disburse, then their decision internally not to collect more funds would, of course, be an appropriate one. But I think it is, from my perspective, within my jurisdiction how they use those funds, which is the

critical question. That is the question that I think has been framed most pointedly in recent days.

Mr. COYNE. Based on your testimony and your comments, it appears that you see no merit at all in any kind of future planning with these funds for what might happen coming down the road, as the Red Cross pointed out they may use some of those funds for.

Mr. SPITZER. No. I think future planning is absolutely essential. I think planning and preparedness is critical. But the question is, do you pay for that planning and preparedness with funds that have been given for another purpose or not?

The objectives that the Red Cross has articulated for alternative purposes for these funds are laudable purposes. They are things that should be done, things that maybe the Red Cross should raise other funds for. But you cannot, as a charity, raise money for purpose A and then decide to spend the money on purpose B if those who gave say I want you to spend the money on purpose A.

I think, as we sit here today, those who gave believed, I think, without any shred of a doubt, if you look at the ads, if you look at the public service announcements, if you look at the statements that were being made, the outpouring of generosity was based upon a representation that those funds were going to the victims of September 11th. And as laudable as it may be for the Red Cross to say we need to plan, we need to beef up our blood supply, we need to build an infrastructure system—wonderful purposes, and the Red Cross is a stupendous organization that steps into the breach on a moment's notice. Having said all that, you can't use the money that was given for victims for those other purposes.

Mr. COYNE. You used the words "tortured process" in your dealing with the charities so far in bringing them to the point where you would like to see them be. I wonder if you could tell us what you think the motives for this being a tortured process on their behalf is so far.

Mr. SPITZER. Well, it is a fair and important question. I ordinarily hesitate to ascribe motives to other people. I think it is a path that only leads to trouble because it is very hard to establish one way or the other what motivations may be, and so I will politely decline to ascribe motive. I don't think there is ill motive. Let me say that.

Mr. COYNE. You don't think there is what?

Mr. SPITZER. I don't think there is ill motive. I don't think that there is a failure to recognize the importance of coordination or a failure to believe that it has to be done. I think that, just as there are turf battles between the Federal Bureau of Investigations (FBI) and the CIA, Central Intelligence Agency, or the FBI and local law enforcement, there are always battles of that nature that may make it sometimes difficult to get charities that play on the same field to share information, to sit down and coordinate as rapidly as may be appropriate from a public policy perspective. But we are working at this.

Mr. COYNE. Thank you.

Mr. SPITZER. Thank you, sir.

Chairman HOUGHTON. Mr. Hayworth.

Mr. HAYWORTH. Thank you, Mr. Chairman. General Spitzer, Mr. Miller, thank you for coming down today.

General Spitzer, a lot of questions arise out of these hearings, and we appreciate again your presence here and your efforts there specific to New York State and the calamity and the attack at the Twin Towers.

Mention was made earlier in the first panel—I believe Mr. Farley made mention of the fact that the Red Cross is a Federally chartered organization. You spoke just a moment ago about its stupendous record of first response and being a charity upon which we all depend. You are in a unique position, however, because it is where the political and the function of law merge. As the advocate on behalf of the State of New York, I would ask you to step back into your political role to answer this policy question.

Given the fact that this organization is Federally chartered, given the fact that donations are coming from around the country, an interstate function, is there a reasonable role for the Federal Government legislatively in your opinion that extends beyond oversight? I believe Mr. Gilman has been looking at and may have prepared legislation. I have been taking a look at it. Is there that role to be played? And, if so, what would be the role that the Federal Government should play in this?

Mr. SPITZER. You are absolutely correct. The Red Cross is created pursuant to Federal statute, chartered pursuant to Federal statute, and hence I think it almost necessarily is the case that there is some appropriate not only Federal oversight but potentially a legislative role that could be played here if there continues to be a failure on the part of the Red Cross to be properly responsive.

It is, of course, possible jurisdictionally for the U.S. Congress to require of the Red Cross to do many of the things that I think most of us in this room today think would be appropriate to facilitate the coordination to speed up the flow of funds to those who most desperately need them. I am not sure that legislation right now could be enacted quickly enough, regs created quickly enough to actually improve the immediate situation that we are facing.

But to answer your question, is there a role for legislative oversight, for Congressional oversight possibly for legislation to address these issues should it become clear that there is a larger structural problem there? Absolutely.

Mr. HAYWORTH. My friend from New York, the ranking member, touched on this, General Spitzer. In your testimony, you talked about the hurdles, the challenges, euphemistically, to have the cooperation of the Red Cross in the database you propose. When was the final decision made? Because I know my friend Mr. Crowley—based on media reports and other first-hand knowledge of the situation, most of us had in our minds the Red Cross had stepped back, stepped back from participation in the database you proposed. When did you receive word that they would in fact join you and the other charities in this form of collaboration?

Mr. SPITZER. Well, it has been a tortured process. And most recently, of course, we heard this morning that the Red Cross says it will be a partner in that database. I received that assurance from Dr. Healy very early on, shortly after the aftermath, shortly after September 11th, but subsequent to that moment there was some retrenching.

The issue—let me explain what the issue has been, what the point of contention has been. I first proposed this database to a number of charities in a meeting in my office approximately 2 weeks after the events of September 11th. There was a general consensus that this made sense.

I highlighted at that meeting that there were privacy issues that had to be dealt with, given the nature of the information that would be disgorged to the common database. Access to the database needed to be controlled—regulated. These mechanical and policy issues needed to be thought through.

Subsequent to that meeting there was an outright rejection of the notion of the concept of a database by the Red Cross, based upon their belief that their views on confidentiality would prohibit their participation.

I came down to D.C., had a very useful meeting I thought with Dr. Healy at which we understood and discussed the parameters of obtaining waivers from those who received aid to permit participation, something that has been done by many charities, had been done in Oklahoma City, and thought the issue was put to rest. There were several speed bumps along the way in the next few weeks, but I believe that, conceptually, the Red Cross is on board. They understand that there will be a waiver. The Red Cross has agreed proactively to go back to those who have received benefits from the Red Cross to seek their—to have them fill out a waiver that will permit the Red Cross to turn over all the appropriate data. So I believe they are on board.

But, as I said earlier, intentions do not mean much at this point. What we need is to see the actions. We need to see their actual—we need to see them taking these steps, and I certainly hope we will be there within a week.

Mr. HAYWORTH. Thank you, General. Mr. Chairman, with your indulgence, if I could just ask one question of Mr. Miller. Maybe something I am not understanding.

Mr. Miller, if I am not mistaken, you made mention, I think General Spitzer just made mention of a similar database that has been utilized to great effect in the wake of the Oklahoma City bombing; is that correct.

Mr. MILLER. Right.

Mr. HAYWORTH. Was the American Red Cross a participant in that database?

Mr. MILLER. I actually am not aware of whether they were or not. I don't know.

Mr. HAYWORTH. General, with your research on what transpired, do you feel qualified to comment on that?

Mr. SPITZER. Sure. My understanding is that they participated to the extent that they would remove data from the database. They did not formally contribute data to the database but that there were occasionally, given the smaller nature of the community in Oklahoma City, communications where the Red Cross would provide equivalent data, though not formally, to the database.

Now if that sounds complicated, it is, because the Red Cross appears to have been—and I don't want to speak for them—but they appear to have been participating without wanting to formally par-

ticipate. And we are, of course, trying to make sure we get much more than that in this instance, and they have agreed to do so.

Mr. HAYWORTH. Sounds like you need a lawyer. Gentlemen, thank you.

Mr. SPITZER. I think they have one.

Mr. HAYWORTH. Yes, I think so, too. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you very much. Mr. McNulty.

Mr. MCNULTY. Thank you, Mr. Chairman.

I am delighted to welcome Eliot Spitzer to the Ways and Means Committee. I am proud to say that he is my attorney general. He has served for about 3 years in office now and has firmly established himself as a very aggressive advocate on behalf of all of the people of the State of New York, particularly with regard to consumer protection. I see him often because he spends part of his time in my district, which is, of course, Albany the capital. And he also had the very good sense to hire as one of his deputies Dan Feldman who spent a good deal of time with me and Joe Crowley in the State Assembly.

Eliot, in the interest of time, I will just ask one question. It is obvious that you are frustrated by some of what has happened post September 11th, and I will just ask a kind of a mechanical question. If your level of frustration rises to the point where you believe that action needs to be taken legally, what legal remedies are available to you according to State law or otherwise to pursue this issue and to make sure that funds which were donated for the purpose of helping victims of September 11th actually get those funds?

Mr. SPITZER. There is, of course, theoretically the possibility that one could allege that the ads that were run maintaining that the funds would be used for the victims of September 11th, one could argue that if funds are not in fact spent for that purpose that you had false advertising, you had a violation of consumer protection laws and a violation of certain other charitable obligations that are codified in New York State law and also in the national charter of the Red Cross. So there is the opportunity—I certainly don't expect that we will get there. I hope we don't—that a legal inquiry could be undertaken to try to force the Red Cross to abide by its legal obligation to spend the funds for the purposes for which they were raised and to abide by the obligations that were made in its solicitations to the American public.

I am hopeful that the Red Cross, understanding the magnitude of this problem, understanding the magnitude of Congressional concern, editorial concern, most importantly public concern, will address this issue forthrightly, simply and clearly in the very near future.

Mr. MCNULTY. Thank you, Eliot, for all the good work you are doing for New Yorkers and beyond.

Mr. SPITZER. Thank you, sir. It is an honor to be here with my colleagues from New York State.

Chairman HOUGHTON. OK. Mr. Hulshof.

Mr. HULSHOF. Thanks, Mr. Chairman.

Mr. Spitzer, you are not my attorney general as you are Mr. McNulty's, but as a former assistant attorney general for the State of Missouri I just want to say that I applaud you stepping up and filling a void that have I witnessed as an American, not as a mem-

ber of this Committee necessarily, but—and I think it is noteworthy to point out that an addendum to your written testimony was a letter that you sent to our Committee back in March of 2000 commenting on some proposed changes regarding reporting of charities and providing some input. So I know that this isn't just something that—you are not a Johnny-come-lately as far as these charitable contributions are concerned. I applaud you for that.

Mr. SPITZER. Thank you, sir.

Mr. HULSHOF. I want to make a distinction, and I think we have tried to do that and my friend from Arizona has tried to do that as well, that we are not here to pile on any charity per se.

I know, for instance, back in my hometown of Columbia, Missouri, that a local television station working with the local American Red Cross chapter donated some air time, and we had an impromptu telethon, and we solicited donations and everyone's good intent. So I hope that those who may witness this hearing don't come away with the negative thoughts that, gee, I have given money and it has gone into some sort of black hole.

Yet I think it is important that we are here. You have raised some legitimate criticism of statements that have been made. You very patiently were listening, I think, during the first panel, and you have commented on some things that you heard today where you took issue with. What else is there maybe that you heard today from other panelists that you find fault with or that you would point out that may be inconsistent with what you have seen?

Mr. SPITZER. Well, I would say that there is a tension that is emerging between the intentions that we hear articulated by the leaders of the charitable community and the actions that we see. And it is that tension between the desire to cooperate, to coordinate, to share information and the failure to move as rapidly as possible to do so that gives me the level of anxiety that I think you see and hear in my testimony.

It is the reality that as the days roll by and the weeks roll by and we have meetings where intentions are stated but there is not followthrough, that at some point we say this process is not working. I am not yet there, but I will tell you that there is much that we are doing, many lawyers in my office are dedicating vast hours to this effort to cajole, to prod, to set up the meeting, to work through the details, and if we don't soon see tangible progress from the charities involved then the nature of my response will be different and it will be through the exercising of legal authority, which is something I certainly hope we don't need to do.

Mr. HULSHOF. Mr. Miller, let me ask you a question. Mr. Hayworth inquired of Attorney General Spitzer of this. And not to cause you to have to delve into the political realm either, do you see a role for this Subcommittee? That is, obviously we are having this hearing under the purview of the tax laws and the tax-exempt status that many of these organizations have. What role, if any, does this oversight Committee have under this present situation?

Mr. MILLER. Well, it seems to me—and actually one of the prior panelists mentioned this—that the fact of the hearing and the sunshine that has occurred I think is a real positive.

I also think, obviously, your Subcommittee and Ways and Means generally does have a very keen interest and jurisdiction over those

rules relating to tax-exempt organizations, and to the extent they need to be modified it is clearly within your purview.

Mr. HULSHOF. Let me try to, with a final question to you Mr. Miller, what have been or what are the triggers and procedures for an audit of a charity? And do you anticipate that might change post September the 11th because of the number of charities trying to respond to this? Or not?

Mr. MILLER. Let me try to divide the question up a little bit. I think—and I can speak more specifically to what we intend to do with respect to the charities that we see operating in the September 11th realm and the relief realm. What we will be doing in the coming weeks is to contact those organizations both that we have granted exemption to and that we have come to know are involved in this undertaking, offer educational assistance and help and give them a single contact point at the Internal Revenue Service. At some point after that, it seems that we will probably take a harder look at some of these organizations to insure that they are meeting their obligations under the Tax Code, and that probably would include a selection of some for examination.

Mr. HULSHOF. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you very much. Mrs. Thurman.

Mrs. THURMAN. Thank you, Mr. Chairman. Both of you, we want to thank you for being here.

Mr. Miller, let me ask you a question first; and thank you as well for allowing these charitable organizations to be set up quickly. I know just two within the district that I represent, Firefighters One and another one, are very thankful that you have been able to do this.

But, in saying that, one of the things that I know that we are all concerned about and I think has been mentioned through the Internet solicitations, other kinds of ways people are trying to raise these dollars, what advice would you give to people who are looking at giving to these funds as to making sure and how could they check to make sure that these are legitimate and not something that would be set up for other purposes?

Mr. MILLER. Well, I would recommend that the individual—and this is a difficult thing because you recognize that contributors here and donors here are very heartfelt in their intentions to move very quickly, and this slows the process down. But my recommendation and my strong recommendation would be, if you are computer literate, to go onto our Web site and take a look at our list of organizations that are recognized by the service as charitable. We update those almost daily in terms of the new organizations that are being added to the list, especially in the disaster relief area. We also have a 1–800 number—1–877–829–5500—that an individual could call and ask the assister whether a particular organization is tax exempt.

Mrs. THURMAN. That may be something us as Members of Congress can get to our press to let them know, because we do get questions on this periodically. Is this legitimate? How do I figure this out? So that may be something we can be doing to kind of help in the fraud situation as well.

General, I want you to explain this database to me, because I am not sure that I know what all kinds of information you are trying

to gather. Second, I would ask, since you are having to go through this right now, now I recognize New York laws are going to be different than Virginia's laws or Pennsylvania's laws, but are you coordinating this information and this conversation with other generals around the country who also may need to be taking on this expanded duty with the charitable issues?

Mr. SPITZER. First, let me describe the database in a little more detail. What we are hoping to do—and it is modeled after the very successful effort to create this database in Oklahoma City—is create one database that would be accessible to the charities that are dispensing funds that would have within the database the names of those who have received particular assistance, the generalized purpose for which that assistance was given, the amounts and the identifying information for those individuals to insure that a charity that received an application from an individual could then go to the database to see whether that individual had received assistance from others prior to that date.

This is a mechanism to insure that the funds are used wisely, that there is not overlap, that people don't fall through the cracks, that the same application is not being reviewed and acted upon by multiple charities simultaneously. It is a way to coordinate among those who are grant givers. It is also going to be part of this database. We anticipate that it would become a coherent list of all victims. If we could get the charities to agree upon a common application form, victims could fill out that application form, submit this application form to the database, and it would be a repository of those who need assistance, whether or not they have yet directly applied to the charity, and it would permit charities that have funds which have not yet been expended to search through this database of victims to say, aha, here is the list of individuals whose needs meet our purposes.

So the information can serve both purposes, that being a charity that wants to give to make sure somebody hasn't yet given and also a charity looking to give to make sure to see who fits the various criteria there.

Mrs. THURMAN. That would also help them—and I notice one of the frustrations that you have been dealing with is some folks being very concerned about the application after application after application, so you would be kind of doing a one shot.

Mr. SPITZER. Absolutely. The hope is that we can reduce the amount of paperwork. We can generate a single application form, a single document that would request of victims that information needed by the charities so that there would be a simple process that would eliminate the feeling that we have heard so much about from victims that they have to go hat in hand, they are being victimized again, they are being made into beggars. We can simplify it, make it accessible in every language. Because we have, of course, many victims who speak many different languages, many victims who are not computer literate. But simplifying this process in this way would permit us to reach out to those who need the assistance.

Mrs. THURMAN. And then coordination with other——

Mr. SPITZER. With respect to the other AGs, there has not yet been a need for that because of all the—I may be committing a sin

that is uniquely New York. But I think that the charities that are largest are indeed active in New York City, and so we are sweeping in, we believe, all the major charities in that effort and we, of course, are not distinguishing between or among victims in New York, Pennsylvania or Virginia or anywhere else. But I have not yet needed to reach out to my colleagues in those other States.

Mrs. THURMAN. Well, my guess is whenever the generals meet someplace in this country that they will ask you to be the speaker to talk about this, and I hope you will do it with the same emotion and articulativeness you did today.

Mr. SPITZER. Thank you.

Chairman HOUGHTON. Please.

Mr. CROWLEY. Thank you again, Mr. Chairman, for your indulgence; and I want to thank the Chairman and the ranking member for calling this meeting, this Committee hearing.

Let me first say thank you to both the panelists and, firstly, with General Spitzer, how proud I am as a New Yorker to have you as my attorney general for the work that you have done on this issue and many other issues. But especially in these hours of crisis you have stepped up to the plate I think, and you are being admired by a great many people for the work you are doing on this issue.

A number of entities were created specifically, I am sure—I can't say that with facts or figures. I am going to ask you this question, General—specifically to deal with the events of September 11th and the victims of the Pentagon, Pennsylvania and especially in terms of the magnitude of the victims of New York City. Do you have any idea in discussions with—if you have had discussion with the Secretary of State, how many in your State—in our State of New York, how many charitable organizations were created solely since September 11th?

Mr. SPITZER. I cannot answer that specifically. In our database, WTCrelief.info, which is an effort to aggregate and list the charities that are active with respect to September 11th aid, we have approximately 200 organizations listed. Now those are the major organizations that are active in this area. But many of them pre-existed September 11th; and so, hence, I cannot answer specifically how many new organizations we have.

But I know that there are many, many that are not listed in our Web site, many that are in the process of registering both with the New York State Attorney General's Office, with IRS, with other AGs offices where they are active. So I think that number will grow substantially over the coming months.

Mr. CROWLEY. For instance, the fire and police and emergency first responders have had a number of organizations that have been created, including the Twin Towers Fund, solely for the victims and their families. Restaurant owners have held fundraisers for the victims who worked in the restaurant business, many of those victims being the less covered workers. Developers have held fundraisers for the construction and building trades victims that we don't hear as much about, and I think was mentioned before about the myriad of people that died on that day. Are you experiencing any difficulties in terms of getting cooperation with any of those other entities, aside from what you talked about the Red

Cross that seems to have been the one that has given you the most difficulty? Is any other entity giving you difficulty?

Mr. SPITZER. I think they are all at this point saying that they will cooperate, and whatever initial hesitancies there may have been have been overcome. I would certainly not distinguish, in terms of the question you have been asking, between those that pre-existed and those that are newly created. I think the questions and the issues have been common on either side of that divide.

But I think the cooperation we are getting so far has been articulated that there be cooperation, but we are waiting to see a more tangible demonstration of that cooperation.

Mr. CROWLEY. Not being an attorney, I asked a question I didn't know the answer to. But it is because I just wanted to make a point. Was the Red Cross the only entity that was giving you difficulty?

Mr. SPITZER. Well, I think that the Red Cross is unique both because of its size and because of its leading role in the charitable world and, hence, their hesitancies, which were more publicly stated and more publicly articulated early on, were more significant in terms of our effort to build the degree of cooperation and coordination that we felt appropriate. As a consequence, I personally paid much more attention to overcoming those difficulties and, again, think and hope that we have done so.

There were other organizations that were hesitant for a multitude of reasons, but, again, I think we have overcome that, at least in terms of the words that are being said, and we will continue to push aggressively to make sure that they live up to that first——

Mr. CROWLEY. I made reference to the very broad mission of the Red Cross as well in terms of they are looking at this as not 5,000 victims or thereabouts but 25,000 families that they have been involved with.

Just one other question for Mr. Miller, and that is the attorney general made several recommendations in his brief today with respect to the Federal Tax Code, such as modifying provisions of the IRS Code that impedes closures in State law enforcement, for example, audits and enforcement actions. Are you supportive of those recommendations?

Mr. MILLER. I think what has happened—and I don't know that I can give an answer to that because I think that the Treasury Department Tax Policy Office really is the better one to speak to that. I would say that the Joint Committee report came out a while back and Treasury still has yet to issue its report on disclosure issues with respect to tax-exempt organizations, and that is probably the best place for us to state our case.

Mr. CROWLEY. Thank you very much. Thank you.

Chairman HOUGHTON. Thank you, sir. Thank you, Mr. Crowley.

Just a quick question. If I give $100 to the XYZ Foundation and I do it in the light of a disaster but I comply, Mr. Miller, with your three requirements, which I understand is that you have got to have an organization which is dedicated to charitable purposes and is likely to accomplish this, serving the public good, and that organization holds back $25 of those $100, is that legal?

Mr. MILLER. Let me see if I understand the question, sir. You give $100.

Chairman HOUGHTON. I give $100, and they give $75 to the disaster and hold back $25.

Mr. MILLER. Depending on whether it rises to the level of fraud I believe that would be, as long as you are using those $25 for appropriate 501(c)(3) charitable purposes, under the Internal Revenue Code that is not a problem.

Chairman HOUGHTON. OK. Now, I would like to ask this: If I give $100 to the American Red Cross, Salvation Army, and they keep a dollar out of that hundred, distribute $99, is that appropriate in your mind?

Mr. SPITZER. You are asking a question that is very important and appropriate, which is that there is a spectrum that we have to recognize.

Let me answer the question this way. If the Red Cross were saying today we have raised $564 million and we have dispensed or plan to dispense in the next short timeframe $563 million, but we have a million dollars that, of necessity, we want to keep for an eventuality that we can't predict that may arise tomorrow, the level of concern would be less. But where there is an articulated policy to take nearly $200 million, in excess of $200 million and withhold it, then the issue is different in kind.

I think technically the answer is, withholding anything—if the purpose of the $100 grant had been to spend it on purpose A and they said we are only going to spend $99, technically that would be a violation. But it would be an understandable situation in certain contexts if they said we are spending $99 but we need $1 because, tomorrow morning, we may need one to pay for some horrendous event. But that is not analogous to saying we have raised $563 and we are only spending $300 and we are holding back $250.

Chairman HOUGHTON. But it would not be illegal to do that.

Mr. SPITZER. Well, let me use the word legal in the following sense. It would be fraudulent if there were an intent to deceive and mislead those who gave. It would be——

Chairman HOUGHTON. We are assuming that that is not happening.

Mr. SPITZER. Right. Let's put aside fraudulent intent. But there could still be a civil violation.

Chairman HOUGHTON. So, anyway, you say it is less likely to cause concern if you held a dollar out than it would be a much larger amount. So the fact is that a certain amount of that $100 can be carved out. So the question is, how much? What is appropriate? What is in good taste? What is in keeping with the people who have given the money at all? Is it $1.50? Is it $25? Is it $15? What is it?

Mr. SPITZER. I think that it is more than a matter of good taste. And I want to be clear that if they pledged to spend a $100 on purpose A and they spent only $99 and said we are not—we are spending the one on something completely irrelevant, it is still a violation. I don't mean to diminish that. But I think the degree of our anxiety will vary based upon those ratios and those proportions and what that one is being spent on.

But in answer to your question, what is appropriate, where is that line to be drawn, I think the Red Cross has failed us by either articulating what the other purposes are or in making very clear that of the 564 or whatever that precise number might be, all but a de minimus amount will be spent on the victims of September 11th. The amounts that they are spending clearly violate that rule of either good taste or propriety or civil liability, in my view.

Chairman HOUGHTON. So it really is a matter of judgment and how you define de minimus.

Mr. SPITZER. Well, no, I would not say that. I would say that there is, again, a technical violation if they pledge to spend $100 on purpose A and they do not do so. But having said that, if they spend $99 on purpose A and say we need $1 because there may be a tragedy tomorrow so we need our immediate relief capacity to be there, then I think in the judgment of both law enforcement and those who have given there would be a more likely response that this an understandable allocation, an understandable way to proceed. If, instead, the ratios are those which we are being presented with and there is a complete failure to articulate what those future needs might be, the level of anxiety and resistance is proportionately greater.

Chairman HOUGHTON. Well, thank you very much. Are there any other questions? Yes, go ahead.

Mr. COYNE. I would yield to the gentleman from New York.

Mr. CROWLEY. Thank you very much.

Just let me ask you, Mr. Miller, would you have any idea of how many new charitable organizations have been established, 501(c)(3)s, to deal specifically with the September 11th attack?

Mr. MILLER. Well, we have granted exemption to, as of Monday, to about 120. There were another 40 or 50 in the pipeline. As Attorney General Spitzer mentioned, you don't have to come in new—as a new organization to do this, and there are many organizations that existed that created funds, so the number is much higher than that. But new organizations that is—those that have come to us in the 120 range.

Mr. CROWLEY. Thank you. Mr. Spitzer, the Red Cross in their testimony said, therefore, we established Liberty Relief Fund, a separate segregated account that was created to hold and disburse funds to help people affected by the September 11th attack, its aftermath—and here is the point—and other terrorist events that could occur in the near future. I think the point of anthrax was brought out. Do you believe that was what the fund was advertised in terms of television ad campaigns, or what the American public believed they were contributing to in the aftermath of September 11th.

Mr. SPITZER. No, I do not. In fact, I think that that statement in their testimony today is one of many variations that I have seen to define the purpose of the September 11th Fund depending upon the date on which the Red Cross was speaking.

Again, I don't say this to challenge their intent, their good faith, their goodwill. They are a stupendous organization. But I think that there have been several iterations and articulations of what the Liberty Fund is to be used for. I have heard various articulations both today here in the witness testimony—reading their docu-

mentation, yesterday in testimony in New York State, Tuesday in testimony down here. So I think there are several different variations; and, in fact, the clarity that we seek is desperately needed.

Mr. CROWLEY. I thank the gentleman from Pennsylvania. Yield back.

Mr. COYNE. Thank you.

Chairman HOUGHTON. Thank you very much. Certainly appreciate your being with us.

Mr. SPITZER. Thank you, sir.

Chairman HOUGHTON. Now, let's go to the third panel.

Mr. Daniel Borochoff, who is the president of the American Institute of Philanthropy in Maryland; Mr. Taylor, who is president and chief executive officer of the Better Business Bureau Wise Giving Alliance; and Mr. Michael Hirschfeld, partner, Dechert/ABA Tax Section of New York.

All right, gentlemen. Now, Mr. Borochoff, would you begin?

STATEMENT OF DANIEL BOROCHOFF, PRESIDENT, AMERICAN INSTITUTE OF PHILANTHROPY, BETHESDA, MARYLAND

Mr. BOROCHOFF. Yes. I am Daniel Borochoff, president of the American Institute of Philanthropy and Charitywatch.org. We are a nonprofit organization that watchdogs the charities. Since 1993 we have been America's most outspoken watchdog of the charities. We are most famous for our letter grade rating A+ to F of the financial performance of charities. Many of the problems that were brought out in the aftermath of September 11th are unfortunately all too common in the nonprofit sector and were of serious concern before September 11th.

Americans have been far too hazy when it comes to making charitable giving decisions and following up on how charities are using their contributions. Charities are making it very difficult for donors in their fundraising appeals when they are not specific about their intended use of the contributions. What happened—in this crisis happens too often. A charity will heavily advertise a particular need, a need that is often most popular, and they will not adequately inform donors of other uses for that fund.

For instance, take a disease group. They might tell you that they want money to find the cure and for patient care. Then you actually look in to it and you find, that this is actually only 20 percent of how they are spending the money. This has happened in this crisis, and we are aware of this because of the massive amount of attention focused on it. In the nonprofit field, a lot of this goes on, and the public really needs to get specifics from these charities.

In this crises, things happened backwards. Money poured in so quickly before the groups had time to prepare a budget or a plan.

Perhaps the Congress will want to come up with some sort of legislation calling for what to do in a crisis and to force some better participation among the charities. Perhaps we want to legally mandate participation. I have been very disappointed about the Red Cross not wanting to share information.

When you listen to these charities talk about it, they all say, oh, yeah, we get together, we talk. But what you want to know is specifically are you sharing information on specific victims. And of course there are ways to protect the privacy concerns of the indi-

vidual victims. Hire an accounting firm or other intermediary like the attorney general's office could protect those concerns.

A wise, equitable allocation of charitable dollars is the most important thing here. This needs to be done.

Also, the Red Cross is talking about having a waiver where people would sign that are unwilling to pass up their privacy concerns. But if you are a scammer, you are probably not going to waive your privacy concerns, so that doesn't really get at the problem. I think there are mechanisms that could be built into the system to protect privacy.

I suspect there might be some turf battles among the charities that aren't working together. I have heard concerns about it getting out to the public about individuals getting a certain amount of compensation and then marketers going after those victims' families. But I believe there are ways to protect it, and the information could be shared among the charities.

I think it is really important that we have the attorney general monitor that database, and have some controls over it. If not him, somebody else, a statesman or somebody that can make sure the charities work together. This is all too important right now.

I want to bring up some points that I have heard from some of the testimony of the September 11th Fund. The Fund is improving—I notice as they go along, they are improving the way they describe things. They used to say, every penny would go to the victims, the family and the communities. Now they are saying every dollar goes to grants, which is an improvement. But, keep in mind, they are an intermediary. They give money to other organizations that may have a lot of overhead costs.

So what we have to do is watch the organizations that they are funding. Earlier on during the crisis, they were just reporting a few grants they made. Now they are finally putting up on the Internet the grants that they have given out. So that is certainly an improvement.

Another thing we have got to watch out with these charities is they are saying—I have heard this a lot from them. They are saying, we may have needs 6 to 10 years out. Well, every charity can make that claim, and—every charity when they get closer to those 6 to 10 years out, they come to the public and ask for more money.

This is a great time of need right now in this country. We don't want charities to be locking away large reserves for a terrorist strike that may or may not happen. What we are talking about here is a reasonable reserve. The Red Cross in natural disasters likes to keep about a $50 million reserve. Instead of socking away $250 million, why don't they take about $50 million, and make that a reserve?

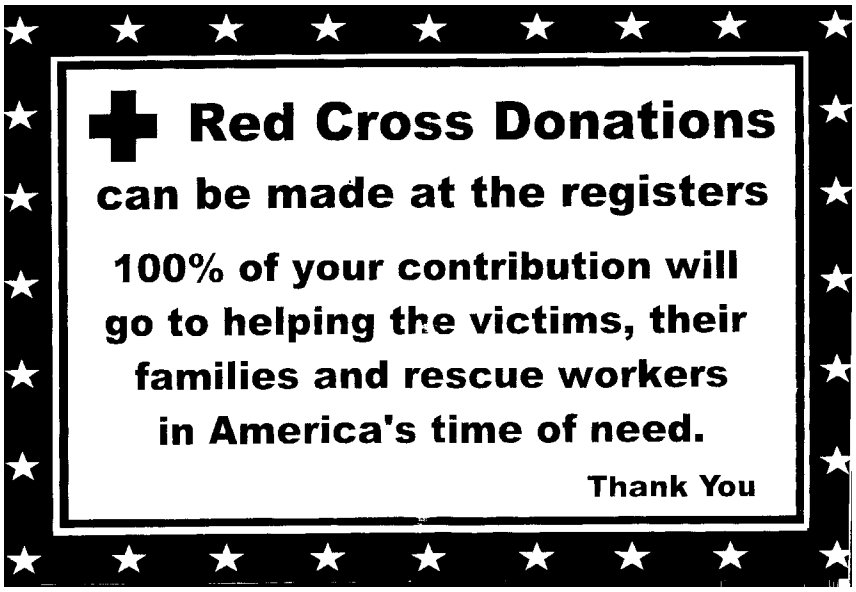
You see, what is happening right now is the charities in this country are being squeezed. We have got higher incidences of alcohol and drug abuse that is causing all kinds of abuse, of women and children and animals. Also, the economy is faltering. People give as a percentage of their income. So giving is getting lower. The nonprofits are being asked to do a lot more.

All of this money getting directed to this crisis is money that is not available to the other organizations. The groups that were rais-

ing money in this crisis were very aggressive and they weren't sensitive to the needs of other organizations.

I would like to present this sign about the Red Cross. This is the type of advertising that they—I believe they most commonly did. This was at a Shopper's Food Warehouse, and it says, Red Cross donations can be made at the registers. A hundred percent of your contribution will go to help the victims, their families and rescue workers in America's time of need.

[The sign follows:]



Mr. BOROCHOFF. This was posted October 27th. At this point in time, the Red Cross had raised way more money than they had planned to spend for these purposes. I understand that the Red Cross may not have put this sign out, but there are a lot of companies out there and sponsors putting up signs, running PSAs or Public Service Announcements. The Red Cross admitted to me they had lost control over what other people were doing in terms of advertising, but these messages make the public perceive that the money is going for this crisis.

The Red Cross shouldn't be able to sock away this money. There is going to be quite an uproar right now. There are a lot of victims here. There are the direct victims, but we also want to think about the many indirect victims here that are involved in this crisis.

The Red Cross is giving out cash gifts when they could be giving loans to people. For people that are in line for multimillion-dollar life insurance policies, instead of giving them a gift. Give them a loan. Get that gift to somebody who really needs the money. This is something that really needs to be done. I would also say——

Chairman HOUGHTON. Are you almost through? Because we have got a time limit here.

Mr. BOROCHOFF. Yeah. OK, just one last statement.

The important lessons for donors of this crisis is that they must target their contributions to meet specific needs that are clearly articulated by the charities. Giving as a way of grieving, honoring brave firefighters or as a way to do something may make one feel good, but it does not help us to accomplish the highest and best use of our precious charitable dollars.

Chairman HOUGHTON. Is that it now?

Mr. BOROCHOFF. I can go on, but if the time is——

Chairman HOUGHTON. You will be able to answer questions.

Mr. BOROCHOFF. Sure, sure.

[The prepared statement of Mr. Borochoff follows:]

Statement of Daniel Borochoff, President, American Institute of Philanthropy, Bethesda, Maryland

The American Institute of Philanthropy and Charitywatch.org is a nonprofit charity watchdog and information resource dedicated to helping its members and the general public make wise giving decisions. Since 1993 we have been America's most outspoken watchdog of the accountability, financial, governance and promotional practices of charities. We are most famous for our letter grade (A+ to F) ratings of the financial performance of charities as published in the *Charity Rating Guide & Watchdog Report*. During this recent crisis nearly every major U.S. media outlet has covered AIP's advice, analyses and concerns. Some of the problems brought to light in the aftermath of the recent crisis are unfortunately all too common in the nonprofit sector and were of serious concern before September 11.

Americans have been far too hazy when it comes to making charitable giving decisions and following up on how charities are using their contributions. Charities are making it difficult for donors in their fundraising appeals when they are not specific about their intended use of contributions. What often happens is that the charity heavily raises money for the one or two aspects of its work that people are most inclined to support and neglects to fully inform donors about the other planned uses of funds. This happened in this disaster but it also regularly happens with other groups. For example, a disease group may primarily ask for money to find a cure and to help your poor neighbor with its medical bills yet the most advertised need may only represent 20% or less of the charities total spending.

Ordinarily nonprofit organizations find a need, develop a plan or budget and then raise funds for it. In this crisis everything happened in reverse. The money poured in so quickly the charities are scrambling to figure out what to do with it. Shortly after the attack it is understandable that the charities must rapidly help take care of suffering people and seek emergency funding before knowing how much money is required for immediate or short-term needs. When judging the charity's response to this crisis, we should separate out its performance meeting short-term, intermediate-term and long-term needs. For longer-term needs it is better to be patient with the charities and give them time to assess unmet needs and allow them to prudently distribute the funds.

This disaster recovery effort is more complicated than others in recent history because it involved so many players including layers of federal, state and municipal government, insurance companies and about 200 charities. Not only was this a horrible disaster it was also an act of crime and therefore victims have access to federal and state crime victim compensation funds. It is important to be aware that though the $1 billion plus raised by the charities seems like a lot it is small compared to the $100 billion that the government and insurance companies may be putting into this crisis. The role of the charities is to fill in the cracks and meet those needs that are not being met by the government and insurance coverage. The federal victims' compensation fund that is still being designed may lead to victim's families receiving anywhere from $600,000 to $25 million (the specific amount depends upon the income of the victim, the size of the overall fund and other factors, many not yet determined) by this spring. The rules have not yet been written for this fund but there is a risk that charitable money given to victims will be subtracted from their federal pay out. The charities' role is to help victims' families until this big federal pay out becomes available. I am concerned that the public is not aware of

this fund and is thinking that the charities are supposed to use their money for the same purpose.

In this crisis many people wanted to give money to the families of the 400 brave firefighters and police who were struck down in the line of duty. Many charity fundraisers were conducted across the country for these victims. Yet these victims already receive substantial benefits because of their job. They receive a tax-free pension of the officer's full salary for the life of the widow, $151,000 from the Department of Justice, $25,000 from the New York City Mayor's Office and money from their union. Any charity raising money for these uniformed people have an obligation to inform donors of what they are receiving from other sources so donors can decide if they want to provide additional support. The Twin Towers Fund, which has raised over $85 million and distributed nothing yet for the families of uniformed city personnel, should tell the public how much it wishes to distribute to each family and when it plans to do so.

If the donors and charities have been confused by this crisis, you can imagine the difficulty of the victims. Unless the charities and governmental agencies can set up a one-stop shop for victim aid, I would suggest that a counselor or social worker be assigned to each direct victim's family to help them navigate the maze. I'm concerned that bolder people that know how to work the system will receive a lot more than timid less bureaucratically experienced types. Also, I am concerned about individual victims that show up on multiple television programs and are included in news articles receiving baskets of money from the public while less publicized victims are neglected. This is also something that happened after the Oklahoma City bombing.

I want to clear up some confusion about the American Red Cross. It is a financially efficient organization and receives an "A" grade from AIP for spending 90 percent of its total expenses on program services and having a cost of only $15 to raise $100. The concern in this disaster is that it is spending money on areas other than what was most heavily advertised and perceived to be the need by the public that being the direct victims, their family and the relief workers. Even if the Red Cross keeps to it $320 million budget, it is likely that less than half of the $550 million raised will be used for this purpose.

I believe that the Red Cross in its zeal to fundraise while the iron was hot raised more money than it needed for what it would ordinarily do in a disaster and behaved opportunistically by using this crisis to raise money for programs that were not a major part of its advertising such as upgrading its phones and computers, promoting humanitarian principles and encouraging tolerance. Many of these programs such as building a strategic blood reserve are useful and important but the Red Cross needed to be more specific about raising money for them. I'm concerned about the Red Cross raising money for programs that might be better run by other nonprofits. For example, why is the Red Cross raising money in its Liberty Fund for physiological trauma counseling nationwide when we already have local mental health associations across the country that can offer this service? A great strength of the nonprofit sector is its diversity of organizations that allows for many creative solutions to complex problems.

On October 26, Dr. Bernadine Healy was forced to resign by year-end as president of the American Red Cross. Up to this point, which is 45 days after September 11th, the Red Cross had spent $140 million of the $500 million it had raised. The $140 million that was spent by October 26 is still $100 million less than the $240 million it had raised by October 2nd. On this date, three weeks after the terrorist strike, Dr. Healy said on National Public Radio that the $240 million that the Red Cross had raised at that time was not enough to cover "our needs in the short-term." As a guest on the same program, I twice pressed Dr. Healy to tell the public specifically how much the Red Cross needed for the short-term and both times she did not answer my question. After the show I said to her: "Is it the case you do not know how much the Red Cross needs in the short-term" and she said emphatically "No." As a watchdog that does not give up easily I asked her in the elevator, "if we had Bill Gates right here and he was willing to write a check to cover the Red Cross' short-term needs, what would you ask him to give?" Her answer was, "I'd ask him what he wants to fund."

The Red Cross could have avoided a lot of donor confusion had it used the Liberty Fund exclusively to raise money for immediate disaster relief and direct victim aid and then cut off fundraising after this need had been met at about $250 million. I believe that it would be dishonoring the intentions of donors for the Red Cross to continue with its plan to keep $200 million or more in a reserve fund for a large-scale terrorist strike that may never occur. I would encourage the Red Cross to keep a more reasonable terrorist disaster reserve of about $50 million, which is what it

seeks to maintain in its general disaster fund. The Red Cross should not keep such a large amount of disaster contributions in limbo during a time of great need.

AIP is concerned that the Red Cross is giving out cash gifts to victims who could be in line for multimillion-dollar insurance policies. The purpose of the Red Cross' Family Gift Program is to meet the cash flow needs, i.e. pay the bills for a victim's family. More could be accomplished with our limited charitable dollars if they were given out as loans that would later be repaid upon receipt of large personal or company insurance payments. The money could then be given as a gift to someone who really needed a cash gift. I brought this to Dr. Healy's attention in early October and she said that it is the Red Cross' policy to do it this way and she was not interested in changing. $100 million has been earmarked for this fund and only about half of it has been distributed, which may explain why the Red Cross is giving gifts to people who only need loans.

Had the American Red Cross behaved more appropriately in this crisis it could have looked forward to receiving the Nobel Peace Prize. Instead its actions have tarnished its high public standing and brought distrust and skepticism to the entire nonprofit field. Though, some healthy skepticism is needed and long overdue in the nonprofit sector, where people's good intentions are too often taken advantage of.

The September 11th Fund, which is being administered by the United Way and the New York Community Trust, has been slow to respond and has not been as accountable as it should be. It took over a month after the terrorist strike to put together a board even though most of the board members wound up being from the United Way and the New York Community Trust boards. The Fund has only distributed one-tenth of the $340 million that it has raised. The United Way and NY Community Trust is to be commended for paying for the Funds administrative overhead. Though the Fund's earlier claim that "100% of all contributions to the September 11th Fund are being used to help the victims, families and communities affected by the terrorist strike" is not totally correct since the Fund gives grants to other nonprofits who may spend some of this money on overhead costs. The Fund has been slow to make and report its grants. Up until October 15, it had only identified three organizations on its Web site that it made grants to of $4.5 million and another $1.3 million of unidentified grants.

The Red Cross and September 11th Fund, which both account for 75% of the funds raised, and other charities that are directly involved in this crisis need to be more cognizant of how their aggressive fundraising efforts impact non-disaster charities. Money directed for this crisis will not be available for other important programs at a time of great need. Americans on average have been stuck at giving about 2% of their income over the past three decades. Income is in decline due to the faltering economy. Therefore, many social and human service charities are receiving less donations while being asked to provide more services to people that have lost their jobs or are abusing drugs or alcohol as a way to cope with the fear of terrorist threats.

It is unfortunate that the charities did not do a better job of coordinating their relief efforts. Early on the charities should have divided up the names of the individual victims from the WTC employer lists and reached out to the victims that had been assigned to them. Charities not knowing which victims had already been contacted had to duplicate the efforts of others. AIP has frequently spoken out in support of the New York State Attorney General's efforts to create an informational database to help charities coordinate their relief efforts. AIP was disappointed by the Red Cross' refusal up until late October to share its information on pay out amounts to specific individuals with other charities. This made it very difficult for other charities to know what to give to a victim's family if it did not know what the biggest charity player had already done. Red Cross cited privacy concerns and expressed a concern to me that the other charities may let information out on victims that could subject them to being harassed by marketers with knowledge of the money that they had received. The Red Cross also said that there were other charities that shared their position but would not publicly admit it. I believe that the charities can introduce controls in the database to protect privacy and allow for an equitable distribution of funds that will keep dishonest people from double or even triple dipping.

On November 2nd the New York Attorney General gave over control of the informational database to the charities. I believe that we need a governmental regulator or independent organization or individual to closely monitor this database. Otherwise, we may not know whether the charities are fully cooperating and equitably helping all of the victims. By taking this database out of the control of the NY A.G., I am seriously concerned that the charities may be trying to skirt some needed accountability.

Donors and the media need to be able to receive reports from this database, not on what is being done for a specific named individual, but on what type and amount of aid is being provided by all the charities to classes of individuals. This cross-charity accountability will help donors to determine if they should target additional contributions and encourage charities to spend existing reserves on needs that are not being met.

In the event that charitable contributions are still unspent after all of the short- and intermediate-term needs of the direct victims of the disaster are met, AIP would consider it reasonable to use the remaining funds to provide aid to the indirect victims who have lost their jobs in devastated sectors of our economy.

The important lesson for donors in this crisis is that they must target their contributions to meet specific needs that are clearly articulated by the charities. Giving as a way of grieving, honoring brave firefighters or as a way "to do something" may make one feel good but it does not help us to accomplish the highest and best use of America's precious charitable dollars.

[The attachment is being retained in the Committee files.]

Chairman HOUGHTON. Mr. Taylor.

STATEMENT OF HERMAN ART TAYLOR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, BBB WISE GIVING ALLIANCE, ARLINGTON, VIRGINIA

Mr. TAYLOR. Good afternoon. I am Art Taylor. I am the president and CEO of the Better Business Bureau's Wise Giving Alliance.

We are a charity watchdog, and, as such, we stand in for donors. We try to represent the interests of donors. Our work typically involves the setting of standards under which charities can voluntarily choose to operate, and we evaluate charities against those standards. We then report on which organizations meet our standards and ones that don't. Our reporting involves consultation with the media, government entities, businesses and nonprofit leaders.

Our work also involves research. Recently, we conducted a survey of donor expectations, and we found out quite a few things, some very relevant to what is going on today.

First of all, we see that 86 percent of Americans gave at least one gift of cash or property to some cause this past year. Seventy percent, however, found that it is hard to tell if the particular charity that solicited them was legitimate or not. Seventy-two percent found that it is difficult to choose between organizations that are soliciting for the same thing.

And here is what is really important for some of our discussion today. Sixty-three percent of donors surveyed want money to go to current needs, rather than long-term needs.

There are a couple of things that we have learned from these statistics. Charities need to do a better job in soliciting donors. That is the first thing.

I have here an advertisement that was in the New York Times on September 14th. This was a corporate-sponsored ad. The first part of the ad talks about the victims and their families in this time of sorrow. The bottom portion of the ad talks about money going to the Red Cross disaster relief fund. The disaster relief fund, in my understanding, is the general fund of the Red Cross which gives them broad latitude to support various disasters.

[The advertisement follows:]

THE NEW YORK TIMES, FRIDAY, SEPTEMBER 14, 2001, PG. C9

AMERICAN RED CROSS

Together, we can save a life

Like all Americans and many throughout the world, Coinstar is deeply saddened by the events of September 11, 2001. Our thoughts and prayers are with the victims and their families during this time of sorrow.

In an effort to do what we can, Coinstar has mobilized its network of supermarket-based machines and is now accepting change donations on behalf of the American Red Cross Disaster Relief Fund. Go to our Web site at www.coinstar.com or call 1–800–928–CASH to find the location nearest you.[1]

Your spare change can make a difference. To find out how else you can help, please visit the American Red Cross Web site at www.redcross.org or call 1–800–HELP NOW."

COINSTAR

Mr. TAYLOR. However, the top reference to victims and their families related to the September 11th episode would give the average person the belief that this money is going to be used for that purpose. So while the Red Cross can say that, well, we advertised truthfully, we told donors that it was going to our general fund, the reality is that, because there is a reference to September 11th, the average person is going to feel that money is going for September 11th victims. A better job could have been done in advertising.

The second thing that we are concerned about is that, while there may be long-term needs that come out of this, the public expects the money to go to current needs and immediate needs of these families, and that is where we believe the money should be going.

A final issue that we have is the need for coordination. There has to be better coordination of what is going on in New York right now. There are too many organizations out there trying to help, and we cannot be assured that each of the victims and their families will be treated equally and the money will be distributed equitably unless there is coordination. So we support Attorney General Spitzer's attempt to bring all these organizations together into a database, and it is important that the information be as detailed as possible. There should be a sharing of information about what went to a particular victim so that organizations can access that information.

Of course, we have to be concerned about the privacy of victims, but I believe there is a way to assure that the victims are treated with dignity while at the same time—organizations are also able to know what money has gone out for which victims so that the money can be distributed equitably.

Finally, I just want to comment that I think that the charitable sector is doing a fairly good job here. Organizations have stepped up to the plate quickly. I believe that in time we will resolve all these things, but I am glad that the Congress has chosen to call a hearing, and I think your job is to continue hearings like this in the future to make sure that all the organizations are doing what they should be doing. Thank you.

[1] Note that a small percentage of the machines in our network do not have the donation capability enabled currently.

[The prepared statement of Mr. Taylor follows:]

Statement of Herman Art Taylor, President and Chief Executive Officer, BBB Wise Giving Alliance, Arlington, Virginia

Good afternoon. I am Art Taylor, president and CEO of the BBB Wise Giving Alliance. I appreciate the opportunity to appear before this Subcommittee to report on our donor education programs and also to share with you some of our concerns arising from September 11 solicitations and the use of 9–11 charity donations.

The BBB Wise Giving Alliance is a nationally recognized monitoring organization that sets accountability standards for charities and other soliciting nonprofits. The Alliance is the organization resulting from the recent merger of the Council of Better Business Bureaus' Foundation and its Philanthropic Advisory Service and the National Charities Information Bureau. Between the two organizations, we have over 100 years of experience in reviewing and reporting on charities.

Often referred to as a "charity watchdog," our core mission is to provide information to donors to assist them in making knowledgeable choices about giving. We work with many audiences, including charities, governmental agencies, charity governing boards, the media, corporate contribution departments, Better Business Bureaus, and nonprofit umbrella organizations. However, the donor is our primary constituent and that is the perspective I bring today.

The Alliance recently commissioned Princeton Survey Research Associates to conduct a major study on donor expectations as part of the process to revise our charity accountability standards. Princeton Research interviewed 2,000 members of the general public on a range of charity accountability issues and found that 86% of Americans gave to charity last year. Charitable giving is almost a universal experience in this country. And, of particular relevance to your subject today, the survey also found that the public has very high expectations for ethics and accountability by charities. However, they are often frustrated at not being able to find the necessary information to make their decisions about giving.

Most people (70%) said it is difficult to tell whether a charity soliciting their contributions is legitimate, and many (72%) also say it is difficult to choose between organizations that raise money for similar causes. Donors want to know most of all about charity finances, but also important to them are the clarity of a charity's advertising and promotion and the effectiveness of a charity's programs.

In addition, our survey shows that the public expects their contributed money to be used for current programs. Sixty-three percent (63%) of Americans expect that when they donate money to a charitable organization, the bulk of their contribution will go toward current programs, rather than put in reserve.

These findings reflect our own experience. The donors and potential donors who contact the Alliance and local Better Business Bureaus are looking for information to make informed giving decisions. They want to give, but they want to make certain their gifts are well used and for the purposes given. They take charitable giving seriously.

As part of our basic service, the Alliance issues reports on individual national charities that include an evaluation of the charity in relation to the voluntary *CBBB Standards for Charitable Solicitations*. These standards address public accountability issues, financial activities such as how much the charity spends on its programs, accuracy of fundraising appeals, fundraising practices and also governance issues. We focus our reporting efforts on those charities that donors and potential donors are asking about, some of which are long established, others newly created. On average, about 75% of these national charities meet all of our standards, and about 25% don't meet one or more of our guidelines.

The Alliance reports on individual national charities outline not only whether or not the organization meets our standards, but also information on program service activities, fundraising practices, charity governance, executive compensation, sources of funds, and how the organization spends its money. Our reports are available directly from our office in Arlington, Virginia, through all 129 local Better Business Bureaus in the United States and on our Web site www.give.org. We also issue a quarterly guide summarizing our evaluation findings and reporting on other topics of interest to donors.

In addition, we issue special alerts and advisories on topics of concern to donors. These range from tips on police and firefighter appeals, to what you should know about car donations to precautionary advice in the face of disaster appeals.

This advice is needed because of the vulnerability of donors, particularly in the wake of disasters. Over the years, we have observed that shortly after every major disaster—flood, hurricane, or the Oklahoma City bombing—a flurry of fundraising appeals to help the victims begins. While most of these appeals are well intentioned

and worthy of support, others are not. Americans are very generous and, unfortunately, there are those who are eager to take advantage of this generosity for their own gain.

Very soon after the September 11th events, we received reports of unsolicited emails and phone calls to consumers that requested donations for the victims of the terrorist attack, including asking for the recipient's credit card numbers. We immediately issued a press release cautioning donors against fraudulent appeals that seek to use a national tragedy to take advantage of American generosity. This alert provided a series of tips for donors to help evaluate appeals. A copy is included with my testimony. We were pleased to see that the media made wide use of these tips about 9–11 relief efforts.

The very first tip was to be wary of appeals that are long on emotion, but short on describing what the charity will do to address the needs of victims and their families. We also noted that charities should be willing to provide basic information that describes the charity's programs and finances. Even newly created organizations should have some basic information available.

In cooperation with the Better Business Bureau of Metropolitan New York, we will soon make available a special section on our Web sites that will provide information on organizations that have been soliciting for September 11 relief programs. We have requested information from approximately 170 such organizations for this listing. Our objective here is to provide a central information resource to donors who are responding to appeals or who are looking to direct their support to specific types of assistance.

We are still receiving inquires from potential donors asking about specific charities. But, we are also beginning to hear concerns from those who have already given and who feel their contributions may not be used as expected. For example a consumer recently wrote: "We have donated $130 to the wtc disaster fund and my employer has graciously matched that amount. We have now found out that our money may be used for other things. We insist that our monies be used for what they were intended. We would like our funds to be placed in an account specifically used for the wtc disaster or be promptly returned so that we may give it to a charity that will adhere to our wishes."

Or another who said "if people knew that this money was not really going to help victims' families with the things they really need, like with bills because of the loss of an income, they would in many cases never have given the money they did. People would be outraged to hear this." Another stated "I am appalled." The messages are consistent—"I gave to help the victims and now I am hearing that my donation will not be used as I intended."

There are a number of our current charity standards that relate to some of the concerns being raised by the public. In addition to ensuring that a majority of public contributions are spent on the programs mentioned in appeals, our 23 charity standards also call for charities: to include, in solicitations, a clear description of the programs and activities for which funds are requested; to substantiate on request their application of funds, in accordance with donor expectations, to the programs and activities described in solicitations; and to ensure that solicitations and informational materials are accurate, truthful and not misleading, both in whole and in part.

We are at a critical juncture here. The American public has stepped up to the plate and given in an unprecedented way. Now the challenge rests with the charitable sector to be equally forthcoming to the public regarding the use of these donations. Broad accountability is called for. How the recipient organizations handle the enormous resources they have been given and how well they communicate with the public about what they have done and plan to do in the future will have an impact on future charitable giving at all levels.

I believe that charities will rise to the occasion and serve us all well. However, I think that it is in the best interest of donors, victims and the charities themselves to take a more collaborative approach in all of their efforts. Coordination is certainly essential to ensure that there is a fair distribution of the 9–11 relief assistance and we encourage charities to cooperate in the sharing of information about available services and victims served. We believe this can be accomplished without unduly violating the privacy of the victims. At the same time, there also needs to be a commitment to openness and transparency far beyond what we are currently seeing. Most importantly, there needs to be a seamless and non burdensome way for victims and potential beneficiaries to seek help.

I firmly believe in the vast power of the nonprofit sector and its capacity to serve and serve well and do not believe that the answer to the current situation lies in more government regulation. However, given the enormous need and the great amount of funds at stake, a clearly defined coordination mechanism is warranted. Whether through the good offices of the New York State Attorney General's office,

through an independent control board, or via a consortium of institutional grant makers, it is essential to identify, document and monitor the activities carried out in this unparalleled relief effort. There needs to be an overall accounting beyond that of each individual organization.

On our Web site, we have posted a number of recommendations to charities that we believe will help them achieve a level of accountability and can also help assure donors that their confidence in giving is well placed. Our recommendations, among other things, include the need for all organizations to: plan for a full accounting of all funds raised and all expenditures by year's end, regardless of the size of the organization; provide for clear descriptions of the programs or services in all future fundraising appeals so that donors and potential donors will know the specific ways that their donations will provide assistance; and maintain strong internal controls on income and expenses. Finally, we recommend that charities establish a board-approved plan for how contributions will be spent and a projected time line for these expenditures and revisit this plan as needs evolve.

Again, I appreciate the opportunity to be with you today and look forward to answering any questions.

[The attachments are being retained in the Committee files.]

Chairman HOUGHTON. Thanks, Mr. Taylor. Mr. Hirschfeld.

STATEMENT OF MICHAEL HIRSCHFELD, CHAIR, 9/11 TAX TASK FORCE, AMERICAN BAR ASSOCIATION SECTION OF TAXATION, NEW YORK, NEW YORK

Mr. HIRSCHFELD. Good afternoon. My name is Michael Hirschfeld. I come to you on behalf of the American Bar Association (ABA) Tax Section and as chair of the 9/11 Tax Task Force which was created in the days after September 11th to help Federal, State and local governments to make sure that taxes become an aid in America's recovery and not a detriment.

I also come to you as a lifetime New Yorker, and I come to you with a tax issue that we have that we think is affecting many of the victims of the events of September 11th who haven't really had their voice discussed so far today. We are focusing not on those individuals who perished or who were injured on September 11th, nor those people who were displaced from their homes, but the thousands of small- and medium-sized businesses in New York who are fighting for their own economic life and who, in turn, employ tens of thousands of low and moderate income people who are also fighting for their life. Because, with their paycheck, they cover that to pay for their food for their family, pay the rent and clothe their children and themselves.

The issue is simply this: When a charity chooses to give to a business that has been affected by the World Trade Center tragedy, should that become taxable income or not? The position of the ABA Tax Section is it should not be. We think that is an important issue to clarify, and we think that, with clarification, that will allow further funds to flow to help these type of people.

As we view it, if a charity is willing to throw a life preserver out there to save a business, we want to make sure the only hole in that life preserver is the one in the middle that the business can cling to for survival. We don't want to see that life preserver riddled with other holes because part of that gift has to be diverted to pay taxes.

Just to put the tax issue in context for you, it has been a longstanding principal that when a charity gives to an individual, that

individual does not have to treat that amount as taxable income, and every dollar they get they can spend it where they need to spend it. The IRS has done a great job in clarifying that issue.

As a quick aside, the IRS has done a great job beyond what Mr. Miller talked about in this whole effort. Two days after the World Trade Center tragedy, they told America, don't worry about your taxes; recover first. We just want to commend them dramatically.

But getting back to the issue at hand, the uncertain issue is what about a business that gets a gift from a charity? Our view is it should be a clear issue, and clear guidance is needed to say that type of gift that is trying to be a one-time grant to help them stay on their feet should not be treated as taxable income.

Just to try to put this thing into context so you can understand what we are talking about, on September 11th, New York lost 29 million square feet of office space. That is all the office space in Indianapolis, Indiana, the 12th largest city in America. Well, that had a ripple effect that permeated throughout New York. It affected a wide variety of businesses. There are a wide variety of shops and restaurants, for example, in Manhattan's Chinatown, who lost valuable tourist dollars, who lost all their customers who worked down there who are there no more and even to this day find they have problems attracting customers because the World Trade Center fires still burn and the air quality drifts over and it harms them.

Apart from that, there is a whole business services sector in New York. There is the high-tech, the computer professionals, but there is also the low-tech, people as messenger services in New York, even plant watering services, a host of businesses that hire low-income people who literally right now are fighting for their lives to stay in business.

There is a host of other types of businesses, too, from the pushcart that stood in the shadows of the World Trade Center that was destroyed, from the preschool in the shadow of the World Trade Center that is fighting for its life.

Our bottom line position is that if a charity makes the determination that there is financial need going on here and the charity says we are going to—wish to help you out to try to keep you alive, not to bring you back where you were before but just keep you alive, then our view is that should be treated as a nontaxable gift. And we think if the government or yourselves can come out with immediate guidance that will unleash more money to help them and also help these people, too, to make sure they are not becoming victims of this attack.

Bottom line view that we have is that on September 11th, while the terrorists may have aimed at the heart of America's wealthiest, many of those people at the bottom rung of our economic ladder are in jeopardy now for their lives, and clarification of this tax issue should help to make sure that dollars will be given to these businesses and it will flow to the benefit of these types of people.

With that, I would like to rest my case, because it is late in the day.

[The prepared statement of Mr. Hirschfeld follows:]

Statement of Michael Hirschfeld, Chair, 9/11 Tax Task Force, American Bar Association Section of Taxation, New York, New York

Mr. Chairman and Members of the Subcommittee, my name is Michael Hirschfeld. I appear before you today in my capacity as Chair of the 9/11 Tax Task Force of the American Bar Association Section of Taxation. This testimony is presented on behalf of the Section of Taxation. It has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the Association.

The Section of Taxation organized its 9/11 Tax Task Force in order to respond to legal questions and community needs within our Section's area of expertise. I am pleased to be serving as Chair of this Task Force. In the first weeks after the attacks, charities in New York, where I live and work, were seeing the need for relief to small and medium sized businesses affected by the attacks. As a result, the tax bar was being presented with questions about the tax consequences if businesses received grants and low interest loans from charities responding to community needs created by the attacks.

Our Task Force asked leading practitioners from our Exempt Organizations Committee to review the law in this area. We found that there is a sound basis in the law to exclude these relief payments from income. However, we also found some guidance previously issued by the Internal Revenue Service (the "IRS") that could have raised concerns on this point. We therefore concluded that new IRS guidance confirming the nontaxability of business relief payments would be materially helpful to September 11-related charitable relief efforts.

We made a submission to the IRS on October 15, as individual comments on behalf of members of our Task Force and the Exempt Organizations Committee, seeking immediate guidance. Consistent with Section policies on conflict of interest, the commenters were individuals whose firms were not assisting clients in seeking guidance on the same subject. When we were invited by this Subcommittee to discuss those comments, we took the additional procedural steps to authorize this testimony as testimony of the Section of Taxation. I hope the Subcommittee will understand that my ability to speak for the Section is limited to the areas covered in my prepared testimony.

Let me briefly review the state of the law that we found, and the IRS guidance we are seeking.

Needs-Based Relief Payments to Individuals Are Tax Free Gifts

The IRS has taken a clear and definitive position that relief payments awarded to individuals on the basis of need are excludable from income. Where the relief payment is made as part of a governmentally-authorized program, the IRS has ruled that the payment is excluded from the recipient's income under a principle known as the general welfare doctrine.[1] Where the payment is made by a nongovernmental Code section 501(c)(3) charity, the IRS has ruled that "a payment made by a charity to an individual that responds to the individual's needs, and does not proceed from any moral or legal duty, is motivated by detached and disinterested generosity," and therefore is excludable from the individual's income as a gift.[2]

Disaster Relief Grants to Businesses Appear To Be Tax Free Gifts; Clarification Needed

We believe that, as a matter of law and policy, the same principles described above for individuals should apply to grants to businesses. Thus, grants responding to need, not proceeding from duty, and motivated by detached and disinterested generosity, are properly treated as nontaxable gifts. This description clearly covers the typical charitable grant to a small or medium sized business affected by the September 11 attacks.

Several authorities provide support for this conclusion. For example, the Tax Court has found that contributions to an unincorporated association which were used to furnish bail for persons held in custody in certain types of cases were gifts and not includible in income.[3] In a lengthy General Counsel Memorandum addressing the proper taxation of income received by an organization that had its exemption under Code section 501(c)(3) revoked, the IRS stated definitively that Code's income exclusion for gifts is not limited in its application to gifts to individuals.[4]

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[1] *See, e.g.*, Rev. Rul. 76–144, 1976–1 C.B. 17 (grant received under the Disaster Relief Act of 1974 is in the interest of the general welfare and not includible in an individual's gross income).

[2] *See* Rev. Rul. 99–44, 1999–43 I.R.B.

[3] *Bail Fund of the Civil Rights Congress of N.Y.*, 26 T.C. 482 (1956).

[4] *See* Gen. Couns. Mem. 39813 (Apr. 2, 1990). Section 2(b)(6)(a) of Gen. Couns. Mem. 39813 states as follows: "One possible position is that section 102 is restricted to gifts received by indi-

However, we also found an IRS Chief Counsel Advice[5] that failed to address the possible gift treatment of flood relief payments, although it could have. This document instead stated that such payments were includible in income under Code section 61 to the extent they did not reduce the taxpayers' loss deductions under Code section 165 or the taxpayers did not elect nonrecognition under Code section 1033. This Chief Counsel Advice unfortunately could lead IRS agents to assert the taxability of disaster relief grants in the September 11 context.

Relationship of Loss Deductions to Relief Grants

Code section 165 allows a taxpayer to deduct his or her losses to the extent the losses have not been compensated for by insurance or otherwise. Thus, for-profit business entities receiving grants from charities to compensate their losses will be required to reduce their deductible losses under Code section 165 by the same amount. We want to emphasize that this rule prevents any duplication of the tax benefit from the income exclusion. However, we believe that there are many business entities that have a low tax basis in their assets and thus may not have significant potential tax loss deductions. These businesses could incur significant tax liability unless there is clarification of the income exclusion for charitable disaster-relief payments.

Below-Market Loans—IRS Should Clarify No Imputation Applies

The proceeds from a loan are not includable in a borrower's income.[6] The IRS, however, has the authority under Code section 7872 to impute income to parties who borrow funds at a below-market rate of interest. The IRS has issued a private ruling stating that below-market loans undertaken as part of a government relief effort do not create this type of imputed income to the recipient business entities, because the loan programs were not established with the principal purpose of tax avoidance.[7] We believe that the same policy and rationale should apply to below-market or interest-free loans made by nongovernmental Code section 501(c)(3) charities responding to the September 11th terrorist attacks. We therefore urge the IRS to confirm that the bargain element of below-market charitable relief loans made to for-profit business entities in connection with the September 11th terrorist attacks does not create income for the borrower.

Forgiveness of Disaster Relief Loans

The IRS has issued some private rulings indicating that amounts forgiven on certain government disaster-relief loans can create cancellation of indebtedness income for the borrower under Code section 108.[8] These rulings could lead IRS agents to assert that forgiveness of loans made to relieve September 11 losses generates tax liability for the borrowing business. For the reasons discussed above, we believe that the cancellation of loans made by governmental entities and Code section 501(c)(3) charities for September 11 disaster relief should be properly viewed as gifts to the borrower. We therefore urge the IRS to confirm that cancellation of indebtedness income from loans to for-profit business entities forgiven by charities in connection with the September 11th terrorist attacks is not taxable.

Conclusion

We believe that disaster-relief payments made by Code section 501(c)(3) charities, whether in the form of outright grants, below-market loans, or loan forgiveness, are all in the nature of gifts. These payments are motivated by the involved charities' core missions and commitments to their respective communities, *i.e.*, the classic detached and disinterested generosity that is articulated in the seminal *Duberstein* case on gifts. The charities involved have no expectation of receiving any goods or services in return, nor do they expect to earn any income, let alone profit, from these activities. Therefore, the analysis of these disaster-relief payments by charities to for-profit business entities as gifts is consistent with the manner in which the IRS has evaluated payments of this kind when made to individuals (or in other contexts), which are treated as gifts.

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viduals, out of personal affection or charitable impulses, and simply does not apply to amounts received by an organization. We conclude, however, that at this point such a restriction would not be upheld by the courts. In *Duberstein*, the Court expressly refused to read an implicit restriction to individuals as donors into a statute that does not draw such a distinction by its terms."

[5] IRS Chief Counsel Advice 2000–32–041.

[6] *See*, *e.g.*, *E.C. Gatlin* v. *Commissioner*, 34 B.T.A. 50 (1936); Rev. Rul. 70–266, 1970–1 C.B. 116.

[7] Priv. Ltr. Rul. 1999–43–037 (Oct. 29, 1999) (analyzing government-financed loan programs created to provide financial assistance to companies affected by severe flood and fire damage.

[8] *See*, *e.g.*, Priv. Ltr. Rul. 1999–43–037 (Oct. 29, 1999).

Thus, we respectfully request that the IRS promptly confirm that charitable loans and grants provided by charities to for-profit business entities affected by the September 11th terrorist attacks do not produce taxable income for the recipients.

We believe that our requested clarifications are fully consistent with existing law, so that Congress does not need to change the law in these areas. However, Congress may wish to consider opportunities to clarify the law on these points, whether in actual legislation or in appropriate Committee report language.

We very much appreciate the interest of the Subcommittee in these important matters. Thank you for your attention.

Chairman HOUGHTON. Thank you very much. Very, very succinct. Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman. I have no questions, but Congressman Rangel had some questions that he wanted to submit for the record for Mr. Borochoff, and if you could answer the questions in writing, I will submit them to the Chairman and pass them on to you.

Mr. BOROCHOFF. OK.

Chairman HOUGHTON. That is fine. Thanks very much. Mr. Hayworth.

Mr. HAYWORTH. Thank you, Mr. Chairman; and, again, thanks to the witnesses.

In this telegenic age, we had a couple of visual aids. Mr. Borochoff, you held up a placard from a store, and I believe you pointed out that the genesis of that posting was unclear. Just again for the record, you don't know if that came from the American Red Cross or the store——

Mr. BOROCHOFF. Or the supermarket, right.

Mr. HAYWORTH. Or the market that had it up there? But it does belie, really, what we have been talking about today, and that is the perception of intentions of the designated gifts.

Mr. Taylor, just for further amplification and clarification in my mind, the newspaper ad that you brought in today, was that sponsored specifically by the American Red Cross?

Mr. TAYLOR. It appears to be a corporate-sponsored ad. There is a company reference in the ad that they are using their good offices to solicit money for the Red Cross, and there is—of course, a Red Cross logo on here. My concern is that the general public, reading that ad, will see that this is connected with the Red Cross, and that it is involving the victims and their families, and that is where the money is going.

Mr. HAYWORTH. And of course——

Mr. TAYLOR. They don't understand that there is a general fund that the Red Cross has where all the money goes, which gives them broader flexibility to use that money for a variety of relief efforts.

Mr. HAYWORTH. In the realm of consumer interaction and advertising, I guess there is a term called bait and switch. Mr. Taylor, do you believe this to be a form of the bait and switch?

Mr. TAYLOR. I don't believe that there is any intention to confuse the public about this. I do believe, however, that these ads could have been clearer in what they were set out here to do.

The general public does not understand that the general relief fund of the Red Cross is a fund that they use for a variety of disasters. When the reference was made to the September 11th events,

victims and families, that is what people are thinking about, and so I think it could have been stated more clearly what the intention of the Red Cross was to use with that money.

Mr. BOROCHOFF. I believe that the Red Cross acted opportunistically in the Liberty Fund. They kept raising money. They should have cut it off after about $300 million—the amount where they had itemized plans for how they wanted to spend it. Through the Liberty Fund, they raised money for things like community services, psychological trauma counseling, tolerance, blood reserves, things that could be very good programs. But what they should have done is had a fund specifically for the victims, the families and relief workers, and call that the Liberty Fund. Then after raising that money, close the fund, then go to the public and say we want money for a strategic blood reserve, for tolerance, whatever else they wanted to do. That would really have helped the public here.

Mr. HAYWORTH. Almost an aftermath type of fund?

Mr. BOROCHOFF. Yes, so the public would know how the money was being spent.

Mr. HAYWORTH. Mr. Taylor, in terms of what the Better Business Bureau does, standards for charitable solicitations, I don't recall seeing the document. I don't know if it is germane to call this a—or appropriate to call it an evaluation of different charities.

One thinks of the travel guides, five star, five diamond, since we have such tourism in Arizona—and we hope those of you from New York will come join us in Arizona more and more, even as tourists return to New York City.

But in terms of the evaluation of the American Red Cross, what has been the overall evaluation of that organization by yours?

Mr. TAYLOR. The Red Cross has met our standards, historically, and that is not to say in the wake of what is going on that we don't have some concerns. We do have some concerns, and we will be investigating those concerns. We have asked for meetings with the Red Cross to clarify many things that we are concerned about, and we hope to have those meetings very soon.

Mr. HAYWORTH. And Mr. Borochoff?

Mr. BOROCHOFF. They receive an A grade from the American Institute of Philanthropy. They are a financially efficient organization. The issue here is that they are spending money on programs other than what was most highly advertised and what the donor thought they would spend them on, but they do a good job of getting the money for the services in general. The issue here is the Red Cross plans to use donations for different programs than the public is expecting.

Mr. HAYWORTH. Thank you very much.

In closing, let me thank Mr. Hirschfeld as well for his perspective as tax counsel and pointing out one piece of legislation and a change in the Tax Code that the Ways and Means Committee absolutely should act on forthwith, and while we have been speculating about other types of legislation, I think that we all see the value in that. So I would thank all of you, especially for that observation, and, Mr. Chairman, thank you for the time.

Chairman HOUGHTON. Thanks very much. Mrs. Thurman.

Mrs. THURMAN. Thank you, Mr. Chairman.

Mr. Hirschfeld, you talked about the issue of all the other businesses and complications that have happened to people's lives because of this in New York City. There also are other people and places within this country that have had those very same problems because of—so are you using all of them and your testimony as a part of that or just those within and around a certain area?

Mr. HIRSCHFELD. I think we recognize that there is a history for doing this type of aid. For example, to help in economically distressed areas, there is precedent that goes back several decades where the Internal Revenue Service has said this is appropriate use of funds. I think it is a question of line drawing and being able to administer it.

Clearly, I think what we see is that if you look to the five boroughs of New York City and perhaps northern New Jersey, there is a clear connection—a clear nexus going on there, where it is—anybody can see the problem there. These restaurants, for example, have lost customers. They are not coming to New York. This business lost its clientele because they are not there anymore.

I think you are raising a good question about where the lines should be drawn. I think, though, there is a certain sense that charities themselves are subject to their own requirements. They cannot just give unless there is true financial need. They have to give only if there is disinterested generosity, as the Supreme Court said back in 1960, and they can only give if there is no legal or moral obligation to do so.

So I think the spirit of our proposal presumably can really percolate beyond the Hudson River. So we are not just being myopic New Yorkers, as some people may have called us in the past.

But I think the question of the line drawing is one we are not necessarily addressing here. We sort of feel the concept should be laid out clearly that there is the ability to give to these type of businesses without generating tax liability and let it be administered as it normally would be in any sort of course of conduct as any charity would do in determining who is injured.

Mrs. THURMAN. I just would say to you that, being from Florida, there is a lot of people that feel like they have been affected by this business-wise, tourism-wise, small businesses, same people who are not working, those kinds of things, and not to take away from what has happened in New York. So I just would suggest that you need to be careful with that, because other people are going to feel like they have also been drawn into this by the terrorist attacks and nothing more than that.

Mr. HIRSCHFELD. No. I think you are right. I mean, even the Wall Street Journal has had an article on this thing in response to the ABA Tax Section's submission to the IRS on this point, and they focus perhaps on New Yorkers, because there the case is easier to see. But I think you are right. I think it does ripple across the Nation, and I think this is not just New York's problem. It is America's problem.

Mrs. THURMAN. Mr. Borochoff, I need to ask a question. In your testimony, you actually talk about there being an important lesson for donors in this crisis, is that they must target their contributions to meet specific needs that are clearly articulated by the charities. In your work and to Mr. Taylor as well in the audit process—I

mean, we had the IRS up here, but we have different folks in different parts of the country raising these moneys specifically for these purposes. Is there an audit, or when you do your oversight in some of these areas how do you know what and when these dollars have been given for what the purpose—I mean, we are talking millions of dollars here that came in at a very quick time that somebody said, well, I want it to go here or I want it to go there. Is there a paper trail for this? Is there a way to settle the American public's feelings about whether or not their money actually did go where they had thought it was going to go?

Mr. BOROCHOFF. Well, the current reporting is on an annual basis and then groups can get extensions pretty easily for another 6 months. So during a crisis-type situation, I would encourage the groups to have a monthly-type reporting so we can watch them and see how they are using or not using the money.

Mr. TAYLOR. Our evaluations of charities look into 23 different areas of a charity's operation. We do a fairly thorough review. We look at every solicitation that they put out, and we compare those solicitations to what they actually do, and how they report their activities in their annual reports, so that we can match up what they say in their solicitations to what they do in their annual reports. We ask them to be specific in their annual reports, and, if they aren't, then we flunk them for failing that particular standard.

Mrs. THURMAN. But that is when they are asking for the solicitation.

Mr. TAYLOR. When they are——

Mrs. THURMAN. When the charitable organization is asking for it. What about when money just all of a sudden is coming in. Is there any way to look at that?

Mr. TAYLOR. Yes. There are financial audits of these organizations. We call for audits of the organizations, and they get them on an annual basis. And, in this case, I agree with Mr. Borochoff that it may not be enough. The organizations are going to need to go further in this particular instance to assure the public that the money is being used for the purposes that they specified.

Mrs. THURMAN. I think it is really important, because we have a lot of kids out here with big hearts that went out and did some amazing things, and I want to be able to go home to them and tell them, you know, look, those Pokemon cards that you sold, by the way, the money went where you wanted it to go.

I mean, I just—those are such—I can't even begin to tell you the amount of stories that we hear. I can't even imagine the stories that you have heard. But we are a very giving Nation.

Mr. TAYLOR. And those children should feel free to write letters to the presidents of those organizations and get answers.

Mrs. THURMAN. Okay. And there is Web sites for you all, too, for them to check where these charitable——

Mr. TAYLOR. Yes. Or he can inquire of us and let us find out some answers for them.

Mrs. THURMAN. I appreciate that. Thank you.

Mr. TAYLOR. Yes.

Chairman HOUGHTON. Thanks, Mrs. Thurman. Mr. Hulshof.

Mr. HULSHOF. Thank you, Mr. Chairman. I guess I am getting the last word here today after a lengthy hearing.

I want to commend you, Mr. Chairman. I know Mr. Hayworth has also been one of those to try to bring us together to discuss just what we have talked about.

I think if there is an incident theme we have heard today throughout the three panels it has been the importance of openness or transparency. I have heard it described in that term.

Mr. Borochoff, I note you have been using a visual aid. This is the November edition that your group has put out, sort of a report card. That is my term, not yours.

Mr. BOROCHOFF. Yes.

Mr. HULSHOF. Might we expect a similar watchdog report simply focused on the charities that have been created since September the 11th? Might we expect something like that in the future so that you would be able to give a letter grade and we would be able to see, along with the American people, which of those charities have met their charitable purposes?

Mr. BOROCHOFF. Well, if we do that, we will have to develop an entirely new rating system, because this is for organizations that have been around for 3 years and based on annual reporting. So we would require a whole different way of evaluating the groups.

Mr. HULSHOF. Okay. Mr. Taylor, you were nodding in assent.

Mr. TAYLOR. We have sent out a questionnaire to about 180 organizations in corporation with our New York City Better Business Bureau, and we will be publishing on our Web site the results of that information once it is gathered so that the public can get some general type of information about what is going on. This will not rise to the level of our annual reviews that we do on these charities, but it will give the public some basic information, a place to go if they want to know more about the organizations and more than we presently have.

Mr. HULSHOF. Let me—this is a unique question, but this is—of course, September 11th was a unique time in our history. Mr. Borochoff, again, as you point out, the global headquarters, the worldwide headquarters of Helen Keller Worldwide that were located across the street from the World Trade Center collapsed I think on the 13th of September, and fortunately no injuries I think have been reported. And yet all of the archives and all of the records and all of that was destroyed when this building came down. Is it appropriate for charities like this to benefit from other charities? In other words, is it appropriate that some of the monies collected in this effort would go to help this global charity that has also been the victim?

Mr. BOROCHOFF. Well, if the direct victims are taken care of first—and it appears that that is going to happen—then certainly that would be a good use of money in this crisis to help a nonprofit. It could also be a theater company that got hit and lost its theater. There are many community and nonprofit organizations that do need help right now.

Mr. HULSHOF. Let me ask, since we are the tax writing Committee in general, and this of course being oversight, I would be remiss, Mr. Hirschfeld, if I did not ask somewhat of a technical question, and that is as it relates to section 165. You make reference to the Internal Revenue Code section 165. Again, not to get too technical for those who may be tuning in beyond those here on the

Committee, Code section 165 does allow taxpayers to deduct the uncompensated losses that they have suffered, and yet there is also many monies available to them through charities that would not be allowed to be—or to deduct—be deducted. You believe, I think I heard your testimony, that that charitable grant should be excluded.

Mr. HIRSCHFELD. Yes. Would you like me to elaborate on that?

Mr. HULSHOF. Would you, just a little bit?

Mr. HIRSCHFELD. Let me just repeat the question, too.

Our position is that when a for-profit business gets a one-time gift from a charity to try to bide it over so it can stay in existence through this crisis, our view is that that should be treated as if it is a nontaxable gift.

Separate and apart from that issue raised is there is a Code section that does allow for the ability for a business to take a loss. For example, if computer equipment is destroyed, it can take that loss.

That same statutory section says, however, if in fact you are carrying insurance and the insurance pays you back for that loss, you really can't take the insurance and take the loss at the same time.

We think, though, that while there is an issue involved as to what you are raising, which is that, gee, at one point you are getting the grant tax free and then you are taking a tax loss for this, I think it is not a disconnect at all.

I think there is an entirely different case where a business carries insurance, whether it be insurance on damage of property they own or business interruption insurance that tries to make them whole, versus what is going on here, which is a one-time grant being made to a business that really is just trying to throw them, like I said before, a life preserver to keep them afloat, which is trying to cover a myriad of expenses they may have, including payroll and administrative expenses as well, we view that as being a real gift. And when you get a gift, you don't worry about what the ramifications are.

Let us say if you are married and you and your wife give an older child $20,000—Let us say you have two children. One of them goes out and buys a car. God bless him. He bought a car. The other one goes out and—she goes out and opens up a business, and she winds up spending that $20,000 to pay people to work for her, to get people jobs so they can really have a livelihood. You don't take away the $20,000 of deductions that your daughter had because she had the good sense to use that money in a fruitful way.

I think in the same vein here our feeling is—and again, it is not free from doubt or else I wouldn't be here—is that when you get this one-time gift from a charity, this life preserver, that it should be excluded from taxable income, and that shouldn't really impact what else is happening to you.

Mr. HULSHOF. Thank you, Mr. Chairman.

Chairman HOUGHTON. Okay. Well, I have got a question, but I want to thank you very much for being here.

Also, I want to submit something for the record that came from the district in which I live.

[The information follows:]

HARD CHOICES

A White Paper on the Challenges Facing Displaced Workers, Non-profits and Donors in Our Community

BY MARJORIE ROSSI
UNITED WAY OF THE SOUTHERN TIER

Introduction

There's no doubt about it . . . times are tough all over, and our Southern Tier community is no exception. The economy was slow before September 11th, and the outlook for a quick comeback is not good. September 11th affected and continues to affect all of us, both emotionally and practically. Local layoffs have been in the news intermittently over the last few months, and the reality is that thousands in our community are facing a difficult struggle to make ends meet. Displaced workers are facing hard choices now; choices they've never faced, like whether to pay for heat or buy food; whether to cut the health insurance or sell the car. We've been very lucky over the years to have a solid network of human service agencies that is there to help people over obstacles like this, a safety net, if you will. Unfortunately, this year even our safety net is faced with a set of challenges that combine to place agencies in troubled circumstances of their own, and difficult choices must be made. Will they cut programs or cut corners? How many seeking help will have to be turned away? Will "non-essential" staff positions have to be cut in order to retain crucial staff? Finally, those with the means and desire to help the situation with financial donations are struggling with giving decisions this year. Will they give locally or nationally? Will they give, but give less than usual because of concerns about their own finances? Will they shy away from giving because they are not sure which charities to trust? Or, will they view charitable giving as a way to be a part of the solution to these difficult challenges? Indeed, difficult times call for difficult choices. Perhaps in understanding the difficult choices facing these diverse groups of people we can uncover paths, perhaps intersecting, to arrive at wise choices that will benefit the whole community. Challenges facing all three groups are driven by three factors: the economy, the effects of September 11th and New York State Funding issues, and the information presented here is organized accordingly.

What the Displaced Worker is Experiencing

For many people locally recent world events have combined to place them in troubled circumstances that they neither could have predicted nor prevented. Many who are among those that have lost jobs have "done everything right": gone to college or trade school, developed career skills through ongoing training, been loyal to the company or companies they've worked for, and taken initiative to advance their careers. Now, even though they have followed the rules, so to speak, they find themselves without a job, and they're asking themselves, "Why me?." Unemployment is never easy, but when it happens on a broad scale, it seems to carry even greater consequences for the affected individuals, and the community at large.

The Economy

Local layoffs have left those unemployed or underemployed facing hard choices now; choices they've never faced, like whether to pay for heat or buy food. When unemployment affects a family, its members might also experience other hardships like domestic abuse, depression and substance dependency. In the case of those accustomed to being able to meet their usual expenses relatively well, being in this situation can cause depression, frustration and anxiety. Plus, they are new to the social support system, and navigating it can be difficult.

State Funding Issues

Because of assets like cars and 401K's, those recently laid off may not qualify for some of the heavily regulated state assistance programs that are available to others. Many individuals are excluded from programs slated for those with dependents; single adults with no children often don't qualify for programs that would really help to get them back on their feet. The process for applying for state-subsidized health plans, such as Child Health Plus, is cumbersome and slow. Some of those that have been laid off may not have been in their jobs long enough to qualify for unemployment benefits.

Effects of September 11th

The economy took another downturn with September 11th and local businesses needed to make even more cuts.

The following story is a typical example compiled from many real life stories, to help illustrate for the reader what the displaced worker is experiencing:

Jill is 32 years old and was hired as a secretary by a local manufacturer about 2 years ago. Her husband, Ed, is a general contractor, so she carries the family health insurance through her employer. They have two children, ages 8 and 5. Jill was let go from her job in a round of layoffs about 5 months ago. They've been able to keep up with expenses relatively well so far between his paycheck and her unemployment, but taxes were due this month, and they got behind on the electric bill so it now stands at $1,000, and there's just no way they can pay it all. Jill is trying hard to find another job, so the couple is reluctant to sell their second car in order to help with the bills. Jill and Ed decided to start taking advantage of one of the local food pantries, to help free up cash for their bills and, while at the agency, they applied for a utility bill assistance voucher to take care of that electric bill. The agency only has a limited amount of funds to use for utility assistance, and can only give them the $300 they need to keep the electric company from turning off their power. Jill and Ed are clearly embarrassed to consider themselves "regulars" at the food pantry but, under the circumstances, they have no choice. With winter coming, the couple is concerned that Ed's hours will drop off, and they worry that, even with the food assistance, they won't be able to pay their mortgage. Jill can only keep her health plan going if they pay for it themselves, and that's just not possible anymore. They will have to apply for the state health insurance to cover the kids, and just hope neither one of the parents becomes ill. Jill and Ed are faced with tough choices and, for the first time, their family needs help.

What the Human Service Agency is Experiencing

Human service agencies are in the business providing programs that both prevent and address social problems. In times like these, many are forced to shift priorities and direct more of their focus to intervention and less to prevention. This tactic can help with immediate needs, but will ultimately result in a prolonged stream of intervention needs in the long-term. Meanwhile, turning away people in need is emotionally taxing for human service program staff. These folks are in the business of caring and helping, and can feel a sense of defeat and hopelessness when they do not have the resources they need to carry out their work.

The Economy

Local layoffs have meant an increase in calls for help to agencies assisting with utility bills, rent and food. It is anticipated that there will be a further increases in calls for help specific to obstacles such as domestic abuse, substance dependency and depression. Those reaching expiration of public assistance benefits will be less likely to find work, and will turn to the human service sector for help. With winter upon us, high energy costs will add to the overall burden of expenses in households with limited resources.

State Funding Issues

The State passed a "bare bones" budget in August, with the promise of further funds to come. Now State Government is advising counties and non-profits relying on these proposed dollars that they likely will not materialize. Without the expected state funding, agencies might have to cut programs, cut staff, turn away some of those seeking help, or all three. State funding for the next fiscal year is uncertain as well, and agencies don't know how long they will be forced to operate under these compromised circumstances.

Effects of September 11th

The charitable giving focus for many has turned to New York City and Washington D.C., leaving local charities concerned that they will be forgotten. Certain agencies have seen an increase in calls for help from people having trouble coping with feelings they are experiencing as a result of direct loss, sadness over devastation seen on television, anxiety about war, and other factors. New York State budget that was expected for municipalities and non-profits throughout the state is being re-directed to New York City for recovery and re-building.

What the Charitable Donor is Experiencing

With so much uncertainty and sadness facing our Nation and our local community, those with the means want to do what they can to make a difference. Many feel they are best able to help with a financial contribution. Under the circumstances, it's hard for these donors to know where their charitable dollars will do the most good, and they are not sure how to get answers.

The Economy

In an uncertain economy, those still in the workforce may be less likely to give at the same level to charities that are helping displaced workers and others who need help, because they have concerns about their own finances.

Effects of September 11th

Some donors are struggling with the question of where their dollars will do the most good: nationally to help disaster relief or locally to help with increased needs because of the economy. The economy took another downturn with September 11th events, and those still in the workforce might choose not to give or to give less because of concerns about their own finances. With so many charities out there collecting for disaster relief, it's hard for donors to know which to trust.

Conclusion

Our Nation has faced difficult times in the past, when war and a poor economy have combined to define a period of time in such drastic terms as "the Great Depression." What our Nation has experienced over the past six months, with the pivotal point being the attack of September 11th, has cut a wound so deep we're not sure yet how it will compare with darkest days we can remember in our history. What we do know, is that the effects of both September 11th and the downturn in the economy are affecting a broad cross-section of individuals in a variety of ways. For some the result is an increased need to reach out ***to get*** help, and for others the result is an increased desire to reach out ***to bring*** help. The agents for connecting those who can help with those who need help are (and have long been) the charities and non-profit organizations that use charitable donations to fund and provide services for people facing life obstacles. Without financial resources to work with, the safety net of human service programs in Chemung and Steuben counties is virtually powerless to provide relief sufficient to fulfill the increased needs that are surfacing as a result of local layoffs. Human service agencies will ultimately have to shift priorities to provide for immediate needs, perhaps having to cut programs (and the staff that goes along with them) that are categorized as preventative. Moreover, even after shifting priorities, it is very likely that they will have to turn away people needing help, or worse yet, close their doors for service.

It is not pleasant to think of these hardships; no one deserves to be put in a desperate and seemingly hopeless situation, but it is a harsh social reality that all of us must acknowledge. United Way of the Southern Tier and its human service partners are working tirelessly to help ensure that assistance is there for those in need. Despite the uncertain economy, United Way of the Southern Tier is committed to fulfilling its promise of financial support to the family of human service agencies it funds. In order to do so, it is crucial that the organization exceed its $4,000,000 fundraising goal this campaign season.

Chairman HOUGHTON. Let me just ask this overall broad question. You, Mr. Taylor, said that—I don't know, is it 86 percent of the people in this country make a contribution? We are an enormously generous country, and it is not only for everyday activities but obviously disasters like this. Hundreds of millions of dollars have come in. A lot of people have been helped. The question is, are we unfairly criticizing these charities who are trying to do the best thing they can? And let me ask all of you.

Mr. TAYLOR. I think that is a very fair question, and the one thing I want to make sure is that we hold up the work of these groups. None of us here can imagine what these organizations are dealing with on the ground in New York City right now. We talk to our local bureau in New York on a regular basis and sometimes feel like they are dealing in a chaotic environment. It must be an enormous challenge for them.

However, we still must assure that, while they are dealing with all these challenges, they take a little time to think about the concerns of the American public who so generously reached out and donated to these people, and we are just encouraging them to

match in their actions as closely as possible what they said they would do in their solicitations. If they do that, I think the American public will be fine, and if there are other needs, come back and ask for help specifically, and the American public will respond.

What we want to do is make charities' response to this event something that we can be proud of in the future, something that will encourage people to give in the future, rather than a black eye on philanthropy.

Chairman HOUGHTON. Thank you. Mr. Borochoff.

Mr. BOROCHOFF. I strongly believe that one of the many things that makes us a great country is our vibrant nonprofit sector and the great work they perform, and that is why we care so much about watching them. I think one of the best ways of motivating the nonprofits to do the best job that they possibly can is by watching them and paying attention to them and getting reasonable accountability from them and following them. What we are doing at this hearing today is focusing attention on them and that will be a strong motivating factor.

Because if we weren't doing this, they may not be acting as strongly in the public interest as we would like, and it really is up to us as citizens of this country to prod and to encourage the nonprofits. And we have been somewhat lazy in this country in not really asking for some of the specifics, for instance, what happened with the Red Cross this time, if people would have simply asked them how much money have they already raised for what they were primarily advertising for, then people would have known that they had already raised enough for that need. But we didn't bother to ask. So more money was raised than what was needed for the direct victims and the rescue workers.

Chairman HOUGHTON. Mr. Hirschfeld.

Mr. HIRSCHFELD. Well, one comment I will make, because from the ABA Tax Section's viewpoint, we are not here to discuss this question, but the question you raised about the children selling Pokemon cards, I will say one thing for the message to get back to them. A lot of New Yorkers felt until September 11th that we were sort of isolated from the rest of this country, and people feel it no more. And people were suffering in pain.

My wife has been on the phone with friends of hers, who fortunately came late to work that fateful day or else they wouldn't be with us, and discussing friends who were on time, who got there on time and aren't with us no more. We have discussed it especially when my son worked at One World Trade Center and fortunately survived. The signals at least that are happening to New York is that we are emotionally hurting really bad, and the fact that kids are out there selling Pokemon cards really means a lot to us here. So it doesn't mean the charities are doing right or wrong, but it sure as heck means that they are doing a lot for us. Thank you.

Chairman HOUGHTON. Well, thank you. I want to thank you, and think on behalf of all of us here we ought to thank the American people for their generosity. They have been absolutely extraordinary, and we are just honored to be a part of this great country. So thank you, gentlemen.

[Whereupon, at 1:09 p.m., the hearing was adjourned.]

[Questions submitted from Mr. Rangel to Mr. Borochoff, and his responses follow:]

American Institute of Philanthropy
Bethesda, Maryland 20814
November 16, 2001

While we certainly appreciate the good intentions of Feed the Children, we would be neglecting our responsibility as a charity watchdog if we did not also point out its problems. Please see the attached articles published by AIP that also address many of your questions.

Points 1 and 2: On the basis of my frequent work with Feed the Children of Oklahoma City, I am surprised to see that your organization gives Feed the Children an "F." Is it true that you do not count gifts-in-kind when you determine a charity's efficiency? If so, don't you think you are misleading your readers when ranking charities such as Feed the Children, charities that collect and distribute to the needy gifts-in-kind rather than cash?

Yes, we generally do not include gifts-in-kind in our ratios. No, we are not misleading our readers. AIP provides a cash analysis of a charity's spending. Donors, who are asked to give dollars want to know how their dollars are being spent. In AIP's analysis FTC gets program credit for any expenses it incurs to sort, distribute or store gifts-in-kind. We clearly disclose in the section, "Getting the Most from Your Guide" in each Charity Rating Guide and Watchdog Report: "Some groups receive large amounts of donated goods or services. These items can be difficult to value and distort the calculation of how efficiently a charity is spending your dollars. Donated items are generally excluded from AIP's calculation of . . . [its] ratios."

Individuals and businesses have strong incentives to donate unwanted goods to charities to receive tax deductions. Charities often feel pressure to accept all of these goods, even though only a portion can actually be used. Feed the Children (FTC) does not disclose to AIP or to the public exactly what goods it is distributing and what specific organizations are receiving each good. Therefore, it is not possible to determine what portion of FTC's gifts-in-kind are really benefiting people. To learn more about problems with gifts-in-kind, please read AIP's attached article, "Appetite Stimulants for the Starving."

Point 3: Would you be willing to share with my staff the calculations you use in order to arrive at your grade for Feed the Children?

The following is the American Institute of Philanthropy's calculation of Feed the Children's fiscal year 2000 financial ratios (all numbers in thousands of dollars):

% Spent on Program Services or Cash Program/Total Cash Expense

Total program expense (includes gifts in kind) of 310,674 less Gifts in kind of 298,168 equals 12,506.

Total expenses (includes gifts in kind) of 364,850 less for-profit Transportation Company of 4,805 and less Gifts in kind of 298,168 equals 61,877.

Cash Program/Cash Expenses = 12,506/61,877 = 20%

Cost to Raise $100 or Fundraising/Related Contributions times 100

Fundraising expense of 45,589 divided by 67,168 in Contributions equal 68%. 68% times 100 equals 68 dollars.

Any charity that has a program/total expense ratio below 35% receives an "F" grade. Feed the Children's 20% spent on program services in fiscal 2000 earns them an "F" grade.

Point 4: Consumer's Digest ran an article in its November 1998 issue based on information provided by you. In its May/June 1999 issue, the Editor-In-Chief of that publication wrote a three page apology and correction for having relied uncritically on information you had supplied. Regarding Feed the Children and the Diabetes Action Research and Education Foundation, the editor said: "Eliminating in-kind contributions can unfairly skew the results." The editor, Mr. John K. Manos, said in regard to your methodology: "Five charitable organizations, when reviewed using different accounting methods . . . do not appear to deserve the negative citations they received, and we wish to apologize to each." In light of criticism such as this, do you not feel changes in your methodology are called for, in order for your readers to obtain a fair and accurate view of charities that collect and distribute gifts-in-kind rather than cash?

No, we do not feel that changes in AIP's methodology are called for in our rating of gifts-in-kind charities. The May/June 1999 issue of Consumer's Digest also points out the following: "We relied on the respected nonprofit American Institute of Philanthropy (AIP) for the ratings, and we used AIP's criteria when we reviewed the charities in our article. Upon further investigation, we have found that, as Cassidy [head of nonprofit direct mail association] indicates, charitable financial reports can be interpreted several ways, and there seems to be no 'standard' approach." To my knowledge, Consumer's Digest is the only major publication that may disagree with AIP's approach to rating gifts-in-kind charities.

Point 5: You were sued by Father Flanagan's Boys Town in 1995. Please inform the Subcommittee of any changes you made to your newsletter, "AIP Charity Rating Guide & Watchdog Report," in your settlement of this case.

As part of the May 22, 1996 settlement between AIP and Father Flanagan's Boys Town, AIP agreed to make the following changes to its Charity Rating Guide & Watchdog Report:

1. When publishing the compensation of the most highly paid persons at a charity, AIP agreed to make clear whether such compensation is for a medical or scientific official, as opposed to a chief executive.
2. When ranking charities on a letter-grade system that includes reductions in the grades of charities with large reserves of available assets, AIP agreed to display the letter grades in a way that makes clear that such reductions are based solely on asset reserves and are not intended as a judgment of the quality of a charity's programs or its ethics.

You will note that in the November 2001 Guide, as in all of its guides published since the settlement became effective, AIP has adhered to these agreed reporting changes. With respect to the second point, AIP has made clear in its Guide that the final grade assigned to Boys Town is a reflection of the charity's asset reserves. As a charity with a large asset reserve, Boys Town receives two published grades: the first grade is based on the percentage of funds used for charitable purposes and the cost to raise $100. The second grade reflects a reduction due to the charity's high asset reserve. Further, the Guide states on the bottom of each page that grades are "based solely on the disclosed financial criteria and are not intended as a judgment of the quality of a charity's programs or its ethics."

Point 6: How many full-time employees are there at the American Institute of Philanthropy?

AIP has 3 full-time employees, 2 part-time employees and about 10 volunteers who provide legal counsel, Web site design services and other assistance.

Daniel Borochoff
President

[Attachments are being retained in the Committee files.]

[Submissions for the record follow:]

Statement of Mark J. Fitzgibbons, Esq., President of Operations and General Counsel, American Target Advertising, Inc., Manassas, Virginia

I wish to thank the Subcommittee on Oversight for the opportunity to submit comments relating to the November 8, 2001 hearing on the response by charitable organizations to the recent terrorist attacks. American Target Advertising, Inc, ("ATA") is a for-profit corporation in Manassas, Virginia. ATA provides creative, consulting and strategy services to nonprofit organizations and political committees in the conduct of their national fundraising and communications programs. ATA's nonprofit clients include organizations exempt from tax under Internal Revenue Code sections 501(c)(3) (more commonly known as charities), 501(c)(4) (which are education and public policy advocacy organizations), and 527 (which are political committees, such as candidates for public office and political action committees).

In addition to being President of Operations and General Counsel for ATA, I am a member of the Free Speech Coalition, McLean, Virginia, which is an organization dedicated to protecting the constitutional rights of nonprofit organizations across the ideological spectrum. My responsibilities at ATA include overseeing compliance with the myriad federal, state and local laws and regulations affecting fundraising. I also

litigate and advocate against constitutional and other abuses by government officials who regulate fundraising.

My comments are not designed to either criticize or defend the mistakes—real or perceived—of charities that raised money in response to September 11. One of the purposes of the November 8 hearing was to gather information for an appropriate regulatory response to those matters. I hope to provide the Subcommittee with information about the existing regulatory environment charities face. The existing problems should not be exacerbated by poorly targeted regulation of all fundraising in reaction to the well-publicized disbursement of money issues facing charities that were inundated with money in response to September 11.

Because ATA helps charities, educational and advocacy organizations, and political candidates and committees raise money, I can attest to the similarities and differences in both the operations of fundraising and its regulation under the law. While some of the goals and techniques of fundraising for the 501(c) nonprofits vary even among the various types of organizations within those categories, they are similar in certain respects to the overall goals and techniques of fundraising for section 527 political committees and candidates. By far, however, 501(c) nonprofits face more burdensome and varying regulations and oversight than political candidates or committees.

Regulation of Tax-Exempt Organizations

Section 527 political organizations and candidates need to qualify for tax-exempt status from the Internal Revenue Service ("IRS"). Fundraising for candidates and committees for federal office is regulated by the Federal Election Commission ("FEC"), which requires registration then periodic submission of reports showing receipts and expenditures of money.

Section 501(c) organizations must qualify for tax-exempt status with the IRS and file annual returns, IRS Form 990. These organizations are required by law to make available copies of their Forms 990 to anyone who asks.

To conduct national campaigns, section 501(c) organizations must register or obtain licenses in 42 states and a growing number of counties and cities. Charities must file multiple applications in some states where counties located in those states also require registration. No such licensing requirements apply to candidates for federal office who mail fundraising letters. Additionally, the professional agencies that assist 501(c) organizations must be licensed in many states, and some states require that such agencies post bonds. If either the agency or the nonprofit is not registered in a state or jurisdiction with such requirements, it is deemed unlawful (punished criminally in some states) for the nonprofit to mail even a single letter into that jurisdiction if the letter requests a voluntary donation.

In addition to registering, charities must file audited financial statements and annual reports showing the details of receipts and expenditures, including how much was spent for administrative costs, fundraising and programs. These reports vary from jurisdiction to jurisdiction, so charities may not simply complete one set of forms and file them in multiple jurisdictions, thus adding to costs of professional and administrative overhead. The Financial Accounting Standards Board, which determines standards for accounting, dictates how charities must account for funds.[1]

Additionally, contracts between charities and fundraising agencies must be filed in most states. State registration laws often impose mandatory language on the contracts between charities and professional fundraising agencies, even though neither the charities nor the agencies may be located in those states and their contracts are controlled by the laws of other states. Many states also mandate certain disclosures in the letters mailed by charities, which constitutes compelled speech.

By some estimates, nonprofits must spend annually a minimum of $30,000+ in fees and costs associated with registering before they may request donations. Those minimum costs do not even include the costs to the fundraising agencies. Those costs also do not include administrative and professional overhead of dealing with the mistakes and abuses of certain regulators, which is explained in more detail herein below. While such expenses may seem small to organizations that raise millions of dollars, such costs are burdensome—even prohibitive—for small, start-up, or unpopular nonprofits. As explained below, these regulatory costs are wasted on complying with laws that ill-serve the public.

Nonprofits also must apply and qualify for nonprofit mailing permits with the United States Postal Service if they wish to use nonprofit postage rates. And the

[1] FASB's standards are highly controversial as they fail to acknowledge the real distinctions between costs of fundraising versus program costs. FASB inaccurately slants expenditures towards fundraising.

recently enacted anti-terrorism bill, known as the Patriot Act, gives the Federal Trade Commission virtually unlimited discretion to regulate charitable fundraising by telephone.

Constitutional Aspects of Fundraising

In the Subcommittee's consideration of the September 11 situation, it is important to keep in mind the similarities and dissimilarities between fundraising for section 501(c) nonprofits and section 527 political committees and candidates. The purported reason given for the regulation of fundraising for charities is to prevent fraud. The reason for regulating fundraising for candidates is to prevent improper influence, or the *quid pro quo* of political favors in exchange for contributions. The United States Supreme Court has addressed some of the constitutional challenges to laws affecting both types of fundraising.

Two of the principal decisions about the regulation of nonprofit fundraising were *Schaumburg* v. *Citizens for a Better Environment*, 444 U.S. 620 (1980) and *Riley* v. *National Federation of the Blind*, 487 U.S. 781 (1988). The Supreme Court said:

> [C]haritable appeals for funds ... involve a variety of speech interests—communication of information, the dissemination of information and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.

Schaumburg, 444 U.S. at 632. Because of the obvious First Amendment implications, laws regulating fundraising are therefore subject to "exacting First Amendment scrutiny." *Riley*, 487 U.S. at 789. "Exacting scrutiny" is otherwise known as "strict scrutiny," and is the toughest judicial standard a law must overcome when faced with a constitutional challenge.

In upholding portions of the Federal Election Campaign Act, which created the FEC, the Supreme Court upheld limits on the amount of money individuals and corporations may contribute to candidates. The Court nevertheless recognized the important First Amendment considerations involved in expenditure of funds. The Court ruled that the FEC could not limit the amount of expenditures by a candidate because that would limit First Amendment activity. See, *Buckley* v. *Valeo*, 420 U.S. 1 (1976).

The end-goals of fundraising for nonprofits versus candidates differ in certain respects. Fundraising for candidates has a simple primary objective: electing the candidate. Fundraising for nonprofits, however, varies in purposes in many ways. Section 501(c)(3) organizations might raise money to provide medical or relief services, find cures for diseases, inform the public about causes of diseases or social maladies, create litigation defense funds, or provide shelter for the homeless. Section 501(c)(4) organizations might raise money to fund petitions to Congress about public policy issues, inform citizens about voting records of elected officials, or educate citizens about matters of faith and values.

The common thread running through all fundraising efforts regardless of the intended recipient of donor funds, besides actually raising money, is providing information. In reality, fundraising is actually advertising for tax-exempt organizations and political candidates. And like commercial advertising, the costs exceed initial returns in the hope of generating future income and repeat business through bonding the public to the recipient of the funds. Businesses spend billions of dollars on advertising without those activities directly generating any income, whereas advertising by nonprofits and political committees is an actual source of income.

Like the diverse purposes for fundraising, the reasons people contribute money vary from person to person, but there are some reasons that are more common than others. People contribute to a candidate because they prefer that candidate over the opposition. Some lobbyists or political action committees contribute money for name recognition or even the possibility of potential access to present views on legislative matters.

People generally do not contribute to nonprofit organizations for the same reasons that they might contribute to candidates. The reasons people contribute to nonprofits are even greater in number than why people contribute to political candidates. Charitable giving and the desire of Americans to form associations are as old as this country, as explained by de Toqueville in the early 19th century.

Part of the problem with the September 11 situation are the apparent motives of an exceptionally large percentage of donors contributing to charities with the expectation that the charities would use that money for the immediate benefit of the victims. However, the September 11 disaster and its response should not be viewed as reflective of donor intent in general. Thus, the Subcommittee's actions, should it decide to take any, should be tempered by the fact that people give to many different

nonprofit organizations for many reasons, and the issues of September 11 must not be considered as the sole basis for a universal response to nonprofit fundraising.

If the Subcommittee were to respond more generally to the specific issues associated with donations in response to September 11, then it needs to consider the following factors.

One of the witnesses at the November 8 hearing who advocated new or more regulatory action, Attorney General Spitzer of New York, claimed that government intervention was "critical" and oversight was needed. General Spitzer, whose statutory authority does not extend to directing distribution of funds from charities, stated that the Red Cross made inconsistent and conflicting statements in addressing the situation of millions of dollars raised and relatively little, in eight weeks, being disbursed to victims. He stated that the charities were in "violation of the trust" of donors because what's relevant is the "intent of the donors."

While General Spitzer may have discerned the intent of millions of donors in this one case when the public outcry has been loud although not unanimous, the Subcommittee and those who would add more regulation to charitable fundraising should maintain a sense that the September 11 dilemma is not like all dilemmas in fundraising. The Subcommittee and other regulators should not use a limited set of circumstances to make general conclusions that would result in an inappropriate universal regulatory response.

Issues raised at the hearing do not merit a general or comprehensive solution, for they relate to a set of circumstances unlike those ever faced in our history. The nature of the calamity and the immediate outpouring of generosity by Americans were overwhelming in many ways. It would be unfortunate if regulators were to capitalize on the well-publicized problems of the charities to advance agendas that do not fit the circumstances that nonprofits face in general.

General Spitzer, in urging government intervention, also addressed the issue of what might constitute potential fraud, such as a nonprofit's saying one thing in a fundraising appeal, but then using the money raised for another purpose within the organization. First of all, let me suggest that the issue of fraud is not one that the Subcommittee needs to address. There are ample laws already extant that satisfactorily deal with fraud.

Second, based on my observations and experience, the matter of September 11 seems to be, at least in part, a problem of charities not being equipped to handle quickly the unprecedented volume of donations combined with the exigencies of determining which recipients are actually eligible for funds, and to what extent one person should receive more money than another.

The matter was further complicated by the judgment—good or bad—of certain charities that they would use money for other potential catastrophes. Given that the September 11 attacks were clearly the potential beginning of other acts of war, the judgment to preserve certain funds is rational even if considered wrong by many people outside those organizations. Certain judgments left the charities and their top officials open to doubts by critics who have neither expertise in disaster relief nor any insider knowledge of the facts about how those charities could in fact respond to further potential attacks and other uncertainties of dealing with an enemy obviously willing to use weapons of mass destruction against civilians on American soil.

When dealing with matters of how charities legitimately use donor funds, certain officials have a propensity to use terms such as "fraud" and "consumer protection" to justify more regulation of charities and their fundraising. The principles advanced by certain regulators, if applied consistently to fundraising by elected officials, for example, could have consequences that would demonstrate that discussions of fraud in the current circumstances are entirely out of place.

As examples of this principle, if a candidate were to appeal for donations during a campaign and expressed a position on an issue, and later, either through finding out different facts or simply having a change of heart, votes another way, should donors to the candidate have a cause of action for fraud against the candidate? Or should candidates be required to disclose up front to donors all of the various campaign expenses, ranging from advertisements, to travel, to meals for staff members, or any of the many other expenditures for which campaign contributions are used? Or, as currently sanctioned by federal election law, should candidates who decide not to run for office anymore be allowed to disburse campaign funds to recipients other than the campaign itself, rather than returning those funds to donors?[2]

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[2] Since the matter was raised, it is fair to criticize the amount of mismanagement and government waste of taxpayer dollars. Such waste in government programs costs, by some estimates, billions of dollars each year. At least charities operate on voluntary contributions, and donors may choose not to make repeat contributions to charities that operate inefficiently, whereas they

Therefore, in considering the proper regulatory response to September 11 fundraising, it would be appropriate for the Subcommittee to keep in mind that overreaction might do more harm than good. Indeed, given the intense media scrutiny of the charities, it might only further complicate matters to insert into the process more government regulators with no true expertise in the workings of disaster response and other matters handled more expertly by charities.

Current Regulation is Flawed and Abused

It is important for the Subcommittee to know that the state, county and local systems that already regulate nonprofit fundraising have their own problems. The outcry of regulators in light of the problems of the September 11 charities may be a case of the pot calling the kettle black.

The process of obtaining licenses with the various states, counties and cities is more expensive and complex than merely filing an application. The licensing processes vary from jurisdiction to jurisdiction, and regulatory abuses in the licensing process further complicate the matter. In fact, many abuses by officials who regulate charitable fundraising would be considered as subject to legal causes of action were such activities done by private citizens or businesses.

ATA made a constitutional challenge to one state's licensing requirements as applied to a category of agencies known as fundraising counsel, which are for-profit companies that provide services to nonprofits but do not actually solicit donations themselves. In applying the less-stringent judicial standard of "intermediate scrutiny," rather than "strict scrutiny" as previously applied by the United States Supreme Court to other state charitable solicitation licensing laws, the United States Court of Appeals for the 10th Circuit upheld Utah's charitable licensing requirement. But that Court held that parts of Utah's law, namely (1) the requirement that fundraisers post bonds as a condition of receiving a license, and (2) the law's giving the government licensing officials unlimited discretion to add conditions to the licensing requirement, were unconstitutional *on their face*. That means under no factual circumstances may such laws be deemed constitutional. See, *American Target Advertising* v. *Giani*, 199 F.3d 1241 (10th Cir. 00).

ATA had argued that it is a violation of the First Amendment, the Commerce Clause and the due process clause of the U.S. Constitution for a state to require a license from an out-of-state agency that provides out-of-state consulting services to out-of-state nonprofits merely because the nonprofits mail nationally. ATA relied on a long line of cases stating that it is unconstitutional to require a license to distribute literature even for the person or entity that is actually distributing the literature. Utah argued that because ATA knows that fundraising letters of its clients will ultimately mail into Utah, then Utah has licensing jurisdiction over this Virginia agency. Such a theory of jurisdiction would give all 6,000+ jurisdictions in the United States the ability to require licenses of virtually any consultant who advises clients that conduct interstate commerce.

Almost prophetically, ATA argued in the Utah case that such a theory of licensing could be applied to require the licensing of *The New York Times*. I am informed that two states besides New York have required that publication to obtain a license because of its September 11 fund for which it solicits in its pages. It has been nearly universally accepted that one of the basic premises of the First Amendment was to prohibit laws restricting (especially the licensing of) the press, political speech and the dissemination of information and literature. See, for example, *Meyer* v. *Grant*, 486 U.S. 414 (1988), *Murdock* v. *Pennsylvania*, 319 U.S. 104 (1943), *Lovell* v. *Griffin*, 303 U.S. 444 (1938), and *Near* v. *Minnesota*, 283 U.S. 697 (1930).

It should be understood that nonprofit fundraising letters serve many valuable functions, one of which is the criticism of public officials who, or government agencies that, may be derelict in their responsibilities. The long-held belief in this country, and indeed one premise of the First Amendment, is that licensing chills protected speech because it subjects the speaker to fear of criticizing those government officials who have the very authority to issue or deny a license to speak.[3]

In addition to the strong constitutional arguments against the current regulatory system, it should be pointed out to the Subcommittee that, while nonprofits are ob-

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have no choice when it comes to the levels of fraud and mismanagement of taxpayer money spent on government programs.

[3] There is no better example of that chilling effect than these comments, which are intended to be informative but may be perceived by regulators who control ATA's licenses (and thus its ability to stay in business) as too critical. Indeed, after I filed the Utah case, an attorney reported to me that one of the licensors said that the states were going to "get Fitzgibbons," in an obvious reference to bureaucratic revenge for challenging the constitutionality of these licensing schemes and being an outspoken critic of abuse by regulators in this area.

viously imperfect, there are no grounds to assume that the current regulators have any better grasp of the complexities of fundraising. Indeed, while examples of bureaucratic incompetence in this area could fill volumes, some examples of mismanagement of, or perhaps poor judgment within, the regulatory process may serve to inform the Subcommittee.

The State of Pennsylvania is generally acknowledged to have perhaps the most aggressive regulatory supervision of nonprofit licensing. While I personally know that the office in charge of charitable licensing is working to improve, it nonetheless leads all states in the issuance of fines to organizations that, merely through administrative error rather than any intent to commit fraud, have failed in *de minimus* ways to comply with the licensing process itself. Despite all of this regulation, the largest fundraising scandal in history, the New Era case, occurred in that state (and where the attorney general, responsible for prosecuting fraud, went to jail himself on other violations).

North Carolina is known as the state that won't accept a properly filed license application unless it is on "pink" paper. North Carolina, solely through the discretion of the licensing officials, also rejects the properly filed applications of fundraising agencies that represent multiple charities if just a single charity the agency lists on its application is not registered. That process prevents all of the other charities that employ that fundraising agency from mailing into North Carolina, and state officials, without warning to the fundraising agency, send notices to all of the other charities that employ that fundraiser that the fundraiser is not registered. This has the impact of making the charities perceive that the fundraising agency is not complying with the law, and is somehow derelict in its duties.

West Virginia, which still requires posting of bonds despite a federal court of appeals calling such a requirement unconstitutional on its face, recently started to reject the applications of fundraisers based on a new and bizarre interpretation of how a bond must be signed. For years, the State of West Virginia accepted bonds signed by the surety in the presence of a notary showing the date of signature, if the surety signed the bond before the effective date of the bond. This is standard practice in the bonding industry. One new state official from West Virginia suggested that the only way to submit a bond to that office is for the surety to state that it has signed the bond on the subsequent effective date of the bond, a process that could not occur without the surety submitting a falsely notarized signature.

State regulators use the licensing process to allegedly gather information about charitable fundraising to provide to consumers within the respective states, despite such information being available directly from charities to donors upon the asking. One of the many problems with states regurgitating this information is that most state employees lack the basic semblances of expertise in understanding fundraising, and the result is that states often misinform or mislead the public about expenditures by charities.

Regulators often show their ignorance of fundraising by linking the concept of fraud to costs of fundraising. Without writing a book on the costs of fundraising, suffice it to say that high costs of fundraising are no measure of fraud. Some charities rely on very large donations from relatively few donors and taxpayer money from the Combined Federal Campaign. Other nonprofit organizations rely on grassroots fundraising where the goals are to seek smaller donations from larger numbers of people, which results in higher fundraising costs. Also, some organizations deem it immoral to take taxpayer money because of the widely held belief that citizens should not support involuntarily causes with which they might not agree. Nevertheless, regulators often use higher costs of fundraising in an attempt to discourage donors from contributing to certain organizations by irresponsibly tossing around terms such as "fraud."

As one example of this, the Illinois Attorney General's office issued a report in July 1997 emphasizing the concept of fraudulent fundraising. The report stated that for every dollar contributed to charities that used the services of fundraisers, 74 cents went to pay fundraisers' "fees." As I pointed out to that office in a letter, that statement by the Illinois Attorney General is false and misleading on its face. Most of the 74 cents of each dollar raised actually went to "costs," such as printing and postage, which are the same costs of fundraising paid by charities that do not employ outside fundraisers. To call the 74 cents "fees," therefore, is misleading, and I asked the Attorney General to issue a public retraction of his report. The Attorney General's office refused to retract its false and misleading statement issued to the public, or take any other corrective actions.[4]

[4] State officials who enter into the competition to provide fundraising services for charities operate no better than other charities. As reported in the November 7, 2001 *Chicago Sun-Times*,

General Spitzer's office is generally acknowledged as the most thoroughly staffed and one of the more professionally run in this area. However, that office still continues to require that certain fundraisers post bonds, and the Attorney General is given complete discretion in deciding what conditions to impose in the licensing process. That office informed me that it would not comply with the portions of the *ATA* v. *Giani* decision holding that such bonding requirements and discretion within the hands of licensors are unconstitutional on their face. The reason given by that office why it will not comply with the 10th Circuit's holding of application of the U.S. Constitution is the jurisdictional defense that New York is not in the 10th federal circuit. The Attorney General's office would therefore rather err against the Constitution by using jurisdictional reasons that a defense attorney might raise in court.

Among the discretionary conditions that the Attorney General imposes on certain fundraising licensing applications is that individual employees of fundraisers must submit their home address, home telephone number, form of compensation and social security number. The state registration law that General Spitzer is charged with enforcing, Article 7–A of the Executive Law, Section 173, mandates that applications for registration must "become public records in the office of the attorney general."

Besides a potential violation of the Federal Privacy Act in requiring submission of an individual's social security number as a condition to obtain a license from a state, the problems of identity theft through use of social security numbers are well known. What may be less well known is that charities and fundraisers for unpopular or controversial causes may be subject to attack. Individuals raising money to litigate against the Ku Klux Klan, and their families, experienced this. Charities that raise money in support of abortion clinics, in opposition to drug dealers, or for other such causes are likewise subject to retaliation and violence. Even less dangerous causes such as pure political speech merit anonymity from forced government disclosure. See, *McIntyre* v. *Ohio Elections Comm'n*, 514 U.S. 334 (1995) and *Talley* v. *California*, 362 U.S. 60 (1960).

When I informed General Spitzer's office of these concerns, I was informed that the data collected on the licensing applications is not made public at the discretion of that office despite the law's clear mandate that such applications be made available for public inspection. Therefore, the Attorney General's office is violating the above-referenced Section 173 of the very law that it is charged with enforcing. It would take a simple cause of action to enforce public disclosure mandated by law for the public to have access to the private information acquired by the Office of the New York Attorney General. Thus, the judgment to collect such information through the licensing process in the first place appears to be poor.

The New York charitable licensing law requires that contracts between charities and fundraisers must be filed as part of the licensing process. Section 174 of that law also requires that those contracts contain a clause that the charity may unilaterally terminate the contract within 15 days of its being filed with the Attorney General's office.

On August 5, 2000, I wrote to General Spitzer informing him that such requirement seemed to obviously violate the U.S. Constitution (Article I, Section 18 of the Constitution states that "No State shall ... pass any ... Law impairing the Obligation of Contracts."). To allow one party to a contract to unilaterally terminate the contract upon the mere filing of that contract under a licensing requirement in a state substantially impairs the obligations of that contract.

Notwithstanding the glaring constitutional problem, I asked General Spitzer in my August 5, 2000 letter how he would apply that law in the event that a charity were to exercise that clause in question and unilaterally terminate the contract. Because of the ambiguity of the language, I asked whether General Spitzer would deem that the contract was terminated in its entirety or just with respect to mailings into New York. I repeated my request for a response in letters dated August 8, 2000, August 30, 2000, August 9, 2001, August 22, 2001 and October 4, 2001, and have not received a reply.[5]

Illinois taxpayers donated more than $227,000 on their state tax returns for prostrate cancer research, but according to that article, "the state has yet to spend a dime on research."

[5] In contrast to General Spitzer's statements at the November 8, 2001 hearing stating that the charities are "testing his patience" by not being able to provide him information in the eight weeks since September 11 about the billion dollars raised from millions of individual donations.

Which is all to say that the licensing process and the current regulatory system has not prevented fraud,[6] has done nothing to improve the efficiency of charities, is rife with constitutional deficiencies, and is subject to administrative gaffes and abuses. That system only adds to the costs of charities, which ultimately diverts money contributed by citizens. Additionally, regulators have exercised poor judgment in enforcement of these laws in manners that have been detrimental to both charities and the public.

Conclusion

As one of the millions of Americans who responded to September 11 with a contribution to aid the victims and their families, I am disappointed to know that more money has not yet been disbursed to those in need. But I also say that people without knowledge of the facts and without expertise in fundraising and charitable programs do not necessarily speak for me in their criticisms of charities, especially if their criticisms are merely grandstanding or driven by other misguided agendas.

As an expert who deals with the existing regulation of charitable fundraising on a daily basis, I see that under the current regulatory system, regulators trample on constitutional rights and fail to accomplish their purported goals all at great costs and no benefits to charities or the giving and receiving public. While there is always a percentage of people who will abuse any system where money is involved, there is enough evidence to show that, on the whole, charities themselves handle charitable matters better than the existing regulators regulate this area.

If the Subcommittee should choose to exert more regulatory authority over the charities in response to September 11, the response should not change the federal laws affecting all charities when only .0001 percent of all charities were involved in the September 11 response. Any new regulations should be designed only to deal with a relative handful of honest, law abiding, and for the most part, larger and well-known charities. There are already more than enough federal, state and local laws dealing with anyone who would use the events of September 11 for fraudulent purposes.

Therefore, should the Subcommittee choose to take actions to assist the victims of September 11, the best thing it could do is to appoint on a temporary basis a private person or persons with expertise in financial matters who understand the complexities of charitable fundraising and the nuances of responding to disasters. That would exclude anyone holding public office or anyone currently in a position of regulating charities. The position should be used as a means of assuring the public that the charities themselves are disbursing money on a sound basis, and not for the overseer to make decisions about how the money should be used.

The Subcommittee should also consider that the charities have already been exposed to intense public scrutiny and criticism by the media. By far, the strongest and fairest regulator of all is the marketplace of public opinion because the future of these charities depends on their responding to the current problems in a manner that demonstrates to the public their efficiency.

General Spitzer correctly said on November 8 that the reputations of these charities are on the line. By their very nature, charities rely on their good reputations otherwise donations will slow or cease. While criticism may be justified, the charities do not need people without facts or expertise creating misperceptions among the public. It is in the best self-interests of these charities to explain to the public how funds have been used, and should they fail to do so, the punishment of lost donor confidence will be a more perfect response than any more regulation could be.

Statement of Citizens Concerned About HOPE Worldwide, Lawrenceville, Georgia

NEWS ITEM—for Immediate Release

Citizens Concerned About HOPE Worldwide—[CCAHW]—is a grassroots effort started by a number of Concerned Citizens across America who have been monitoring the donations made to HOPE Worldwide following the World Trade Center Disaster of September 11th. We have discovered some disturbing Facts.

[6] In the *ATA* v. *Giani* case, Utah was asked by the judge to provide any factual basis that these laws do in fact prevent fraud, and Utah admitted in its briefs that it could find no evidence to support its claims, and the 24 states that signed on to an *amicus curiae* brief likewise failed to present any factual support for such claims.

A Bit of History

HOPE Worldwide [HWW] is the 501(c)3—IRS recognized "Not for Profit" wing of the International Church of Christ, Los Angeles, CA. Since HWW was established early in 1991 contributions to this organization within the U.S. have increased to more than $27 Million in year 2000. Collections in other countries is reported to be around $3 Million additional. Some financial information about this organization is available from their web site at http://www.hopeww.org or from various watch-dog agencies such as http://www.guidestar.org—but the data is incomplete at best and does not give adequate or accurate details of their spending. In fact—HWW clearly states in their on-line Financial Report for 2000—" ... Financial information for non-U.S. affiliates is unaudited. Audits for these entities were not available in time for this publication."

One would be hard pressed to answer the logical question—how can HOPE present a Financial Report for Public Information—when their Non-U.S. Programs have NOT been Audited for over 10 years? Several people have complained and we have confirmed that when one requests a Complete Audit from HWW—all they receive is a Balance Sheet and slick promotional material encouraging more donations. The firm of Price Waterhouse Coopers [PWC] is employed by HOPE to conduct Annual Independent Audits of many of the HWW Affiliated Entities—more than 30 at last count. We know that a complete Audit is produced—but HOPE does not provide it to the Public—[even on request].

The purpose of this mailing by CCAHW is to alert the Public, the News Media and various Authorities that HOPE has aroused our suspicion in their handling of a recent campaign to collect for the victims of the September 11 Terrorist Attack(s).

Here Are the Details

On or about September 18th, HOPE Worldwide published a Press Release titled: "HOPE Worldwide Sets Up Disaster Relief Fund." The Press Release was published on one of the Official ICC web sites: http://www.kingdomnewsnet.org/. The Press release [see News Archives Section] announced the establishment of "the Fund" and promised that " ... ALL money contributed to this fund will be forwarded to qualified relief agencies working in the disaster areas." An address in Hamilton, New Jersey was given for donations. Please note that HOPE promised to: "forward ALL contributions*!!

On or about September 19th, the same website ran an article titled: "Special Collection in New York Yields Over $100,000.00." NOTE: this News Article has since been mysteriously removed from the site!! [It's available elsewhere and we have copies]. The article went on to detail how the New York [ICC] Church had collected $48,971 and the LA [ICC] Church had collected $65,000. This represents the amount collected within the very first few days of the Disaster Fund Drive.

The Main website for HWW repeats the announcement of "the Fund"—but gives a different address for donations—and drops the promise to: "forward ALL donations." In fact—they very carefully measure their words as to what will be done with the donations.

Earlier this month we obtained a copy of the ICC distributed publication entitled: "HOPE Worldwide—ACES Newsletter" [Autumn 2001]. Two articles within this newsletter mention what has happened thus far and what will happen to the money contributed to the HOPE Worldwide Disaster Fund—America's Disaster. Needless to say—the following two sentences from the article titled: "HOPE At Ground Zero," leaves much to be desired in Accountability to the Public. "The generosity of the New York City Church, as well as other member churches of the International Churches of Christ, has once again overflowed as its members have donated hundreds of thousands of dollars to the HOPE Worldwide Disaster Relief Fund. On October 27, HOPE Worldwide was pleased to present a check to a fund for the families of firefighters."

By the end of the week following the publication of the above Newsletter, the HWW Official Website on November 2nd published the following accounting details. They stated that a total of $275,000 had been collected and distributed giving details as to which agencies received "a check" in "a ceremony" on October 28th. They stated that members of the ICC had donated $240,000 of the total. This seems rather skewed in view of the fact that just two of their over 400 congregations had collected donations totaling almost $113,000 in just one day. There have been SIX Sundays to collect since the establishment of "the Fund"—add to that the fact that there have been donations from the public.

Something does not seem right. The ICC boasts membership of approximately 128,000 members worldwide, with a large percentage of their membership residing in the U.S. It does not seem worthwhile to boast and point out to the Public that each of their members donated approximately TWO Dollars each on the average,

over a full SIX week period. We are extremely suspicious that far more money may have been collected—and has not been properly accounted for.

Add to all of this the following discovery. Another article in the same Newsletter titled: "A note from Bud & Kitty Chiles" goes on to outline what we believe to be the setup for a diversion of the contributed Disaster Fund money to a project of questionable value to the overall group of victims. "To help meet the needs of the 15,000 kids who have lost one or more parents as a result of the WTC attacks, we plan to establish a HOPE Worldwide Memorial School of the Arts & Technology in Lower Manhattan."

Our Sincere Hope

The Concerned Citizens of CCAHW on behalf of all contributors to the Disaster Relief efforts [as well as other HOPE Projects]—call upon the leadership of HOPE Worldwide and the International Church of Christ—to become FULLY Accountable—at least on this Project. Your history of providing inadequate financial details speaks volumes for the way you have conducted your charity business in the past. Your response to our discoveries presented here and our reasonable requests for "complete financial disclosure"—may well become a model for the level of accountability expected from you into the future.

God Bless America and especially the Victims of the September 11th Terrorists Attacks. Any Charity collecting on your behalf must be held FULLY Accountable!!

Statement of Terri Lee Freeman, President, Community Foundation for the National Capital Region

Let me begin by thanking Chairman Houghton and members of the House Subcommittee on Oversight of the Committee on Ways and Means for the opportunity to submit testimony on behalf of The Community Foundation for the National Capital Region (The Community Foundation) at today's hearing regarding the "Response by Charitable Organizations to the Recent Terrorist Attacks."

The mission of The Community Foundation is to facilitate individual, family, organizational and institutional philanthropy, at all levels, to improve the quality of life in the metropolitan Washington area. We were established in 1973 as a public foundation (charity) that would provide grant money to nonprofit organizations meeting the needs of the community. Since that time, we've grown to more than $200 million in assets held in more than 240 charitable funds established by individuals, families, organizations and institutions. While all of these assets are not endowed, we are a permanent philanthropic institution in the region.

In fiscal year 2001, The Community Foundation made grants totaling $28.8 million, with 85% of those dollars going to the metropolitan Washington region. These figures make us the leading grant maker in the metropolitan Washington region. These grants ranged in size from $500 to $4,000,000 and were distributed to more than 1,085 nonprofit organizations. And with contributions of more than $85 million in the same year, we are one of the fastest growing community foundations in the country.

In the wake of the September 11 terrorist attacks, many corporate and individual donors came to us asking how they could help. On the afternoon of September 11, The Community Foundation agreed to support the September 11th Fund, a philanthropic fund of the New York Community Trust and the United Way of New York. By the morning of September 12, it was clear that The Community Foundation should establish a fund to receive contributions specifically for the survivors and families of Flight 77 and the Pentagon. Additionally, The Community Foundation supported the local United Way of the National Capital Area's effort in promoting the September 11th Fund with designation numbers for Washington, DC and New York (9011 and 9012 respectively).

In the days right after the attacks, The Community Foundation consulted with people at the Oklahoma City Community Foundation who had much to teach us about coping with the aftermath of terrorism. One of the things we learned was that it is very important to ensure that support for survivors and families is available long after the emergency work is completed. For those directly affected by acts of this magnitude, healing takes years not months.

On Friday, September 14, The Washington Post announced the establishment of the September 11th Fund of United Way and The Survivors' Fund of The Community Foundation. The Survivors' Fund was established to provide *long-term* support for victims and families affected by the terrorist attack at the Pentagon. As of October 31, 2001 more than $11 million has been contributed to the Fund from individ-

uals, corporations, foundations and groups/organizations throughout the United States, including the Freddie Mac and Fannie Mae Foundations, as well as ExxonMobil, Lockheed Martin and thousands of concerned American citizens. 100% of those contributions will be used to support the survivors and their families. The local philanthropic community has contributed administrative support to manage the fund.

The Survivors' Fund is intended to provide for long-term needs, after the emergency relief efforts of organizations such as the Red Cross, the Salvation Army, the military and others are complete. By long-term we anticipate a minimum of a five-year horizon for the fund. It is modeled after a fund that was established by the Oklahoma City Community Foundation after the 1995 bombing of the Alfred E. Murrah Building.

The Community Foundation has named Northern Virginia Family Service as the lead nonprofit social service agency that will provide case management services to those who are eligible for assistance through the Survivors' Fund. The primary target group to receive services and support from this fund are: families of those killed at the Pentagon, including military, civilian, contractors and airline passengers/personnel; and, people who were injured at the Pentagon and their families. Secondary recipients are those on site at the Pentagon who were not physically injured, but suffered mental anguish; fellow employees of the airline personnel who died; and, rescue workers.

Caseworkers will be assigned to each family to assess their needs and work to make sure that survivor's and families receive the support they need. The Survivors' Fund will pay for services, such as long-term medical expenses, mental health counseling, education support for children of parents affected by the attack, and general family support for those families identified by the case workers as requiring this type of support.

The Community Foundation has developed a sound management system for the Survivors' Fund. We are currently recruiting a governing board and distribution committee and expect to announce our first distributions in early December.

The Community Foundation intends to work as collaboratively as possible with other entities that are providing direct support and assistance to the victims of this tragedy. Along with the United Way of the National Capital Area, we are working to develop a database that will allow us to track services and financial support provided to families.

Although it is not the mandate of our fund to support frontline nonprofit organizations that continue to provide services to the immediate and secondary victims of that tragic day, it is our belief that those organizations are critically important to healing our community. As more and more Americans are called up to military service and others lose jobs due to a faltering economy, nonprofit organizations will be called into action as never before. They will be expected to respond, as they always have. The demand will be great and the resources limited.

While the families of those most directly affected by September 11 must be taken care of and have the support systems and resources they need in place, now and in the months and years ahead, we believe that it is imperative to assure the stability of the nonprofit organizations that are always poised and ready to serve in a time of national, regional or local distress. We must continue to support the web of nonprofits that provide all of us with a safety net of support and do so much to enrich the lives of people throughout our region and our country.

I thank the Committee for allowing me to make this statement on behalf of The Community Foundation for the National Capital Region and in support of the nonprofit sector, a stable source of human services in the community.

Statement of the Hon. Joseph Crowley, a Representative in Congress from the State of New York

In the wake of the September 11, 2001 attacks on America, our Nation saw both the worst of humanity and in America's response to this brutality, the best of humanity. People opened their hearts and wallets to aid their fellow man, whether it be their neighbor or an unknown soul thousands of miles away.

We have seen lines to give blood, a run on the American flag, a renewed sense of patriotism, and a new spirit of generosity, both financial and non-financial. Today, we examine if the financial generosity of the American people is being delivered to those that most need this assistance.

Since September 11, American's have given more than 1.2 billion dollars to charitable organizations working on relief and recovery efforts related to the attacks. This dwarfs the contributions following any previous disaster.

And these figures do not account for the many, many ways Americans are otherwise giving unselfishly of their time and effort to lend support to the victims' families.

But, this immense and sudden outpouring of donations to relief efforts also creates an immense logistical problem. Today I hope we can examine, and perhaps ease, many of the concerns related to making certain the money goes where people intended it to go.

What mechanisms, for example, are being created to assure that funds directed to relief and recovery are distributed as efficiently as possible? How are charities keeping track of victims to assure nobody in need of assistance is missed? How are these funds being distributed?

There is no doubt that the charitable organizations at the heart of this influx of donations are providing valuable and very necessary services.

Unfortunately, there is the ever-present temptation for fraud in these circumstances. One responsibility of our government is to help head off fraudulent operators in the marketplace who prey on American's best intentions with their own evil designs.

I want to thank Chairman Houghton, a fellow New Yorker, and Ranking Member Coyne for granting me the opportunity to join them and this Subcommittee on the dais today to question the invited witnesses. This will give me the opportunity to report back to my constituents in Queens and the Bronx, New York, many of whom lost a loved one, an accurate picture of where their donations are going, and who is, in fact, benefiting.

Statement of Pamela Federline, Des Moines, Washington

Thank you for the opportunity to provide written input into this hearing. I am a private citizen who joins in the collective outrage of our citizens in the terrorists attack against the United States and the innocence that died that day, not just in human lives, but in our belief we lived in a place free of such vile acts of cowardice.

I am also a private citizen who uses my volunteer time and donates funding to nonprofit agencies for the betterment of our communities. Thus, I feel it is important to weigh in on this hearing on the Response by Charitable Organizations to the Recent Terrorist Attacks.

There is no question that the outpouring of human generosity in the aftermath of September 11th has been a beacon of hope and love for all those impacted by the events that unfolded on that day. Just as true, however, is the staggering responsibility suddenly thrust into the hands of the organizations entrusted with the stewardship of these funds, and in the subsequent handling of distribution to families and affected organizations.

It is important to understand that from every perspective, including the responses of government, corporate America, the philanthropic community, and individuals, we have all been reshaped by the events of September 11th. Within the context of such a massive outpouring of help, it is imperative that the whole system take a collective deep breath to make sure that the response in aid to citizens caught in the aftermath is carefully coordinated to avoid duplication of services and to improve efficiency across agencies.

The issue of funds flowing quickly out to the families, while important, is not as important in the long run as the immense stewardship responsibilities. This is not as easy a process as we might assume. For example, there are many questions that charitable organizations have not had to previously ask in an effort to assure that family members who come forward are who they say they are. While these questions to determine familial status may seem impersonal, if funds were distributed to someone fraudulently, the organizations would be just as culpable to the public trust, and the end result just as damaging.

Thus, it is prudent, particularly for the larger charitable organizations, to have a joint definition of "family relationship" whereby there is no confusion. We might call on the experience of both public and private organizations to assist in crafting a liberal enough definition for what constitutes a "family" such that there is no discrimination in the allocation of funds based on traditional-only definitions and life situations. For example, an elderly aunt might have lived with a supportive nephew

who was killed in the attack. He provided the primary housing support, now gone, for a frail, older adult. There are many, many such ways that family can be defined.

We are fortunate to live in a great society that breeds generosity of sprit and open hearts in times of crisis. It is also an unfortunate truth, that in times of crisis, the worst of the worst come out to defraud the system, the victims and our collective conscience.

I am in favor of taking the appropriate amount of time necessary to assure that funds are distributed fairly, equitably and consistently to affected families, while working collaboratively across the public and private sectors to reduce the likelihood of fraudulent claims.

The shared response to tragedy by both the government and philanthropic sectors requires an understanding of the huge faith being placed in the stewardship of funding. We all want to see that affected families are helped in as timely a manner as possible. How charitable organizations respond will have longstanding implications in the philanthropic community in the wake of these events. I urge both caution in government intervention in private philanthropy *and* a completely open accounting of funds donated to assure that the public has not misplaced its trust in the private system to help the citizenry. Perhaps government's most important role in this issue is to use it's vast experience in fraud prevention to provide support to these large organizations, while providing enough oversight to encourage a completely open distribution process accountable to the public through the existing IRS system for charitable organizations.

We will, all of us, be watching.

Marble Falls, Texas 78654
November 8, 2001

To whom it may concern,

The American Red Cross should announce, nationally, to refund donations. Donors were told the Liberty Fund was to be specifically and immediately for family survivors of those killed on 9/11. The American Red Cross is clearly stealing the donations from their intended recipients and the donors. Red Cross desires to keep the large sum in interest bearing accounts, on the excuse (caveat) that the added word "aftermath" can include anthrax or future terrorism. These adjective additions are self serving to the Red Cross to allow them to indiscriminately distribute and withhold the donations into infinity.

The $560,000,000.00+ in the Liberty Fund was purported to go strictly to the surviving immediate family members of those who died on 9/11. Mr. Blaul has stated there would be no "means" testing for those families. If there truly is no "means" testing then there is no reason for withholding direct distribution on a bi-monthly basis. **$560,000,000.00+ divided by the 5,000+ figure of deceased, then distributed equally to each surviving family (the spouse, or children, or parents, or siblings, in that order of priority. NO ROOMMATES!) If 500 people declined the donations that money should go back into the pool for equal distribution to approximately 4,500 families.**

The Red Cross illegally distributed much of this fund to 22,000 people who didn't lose a family member; but, lost a job. **They can apply for unemployment. Dead people cannot.**

If the Red Cross wants to hand out bundles of cash on the street indiscriminately to street people, assist unemployed, serve coffee and donuts, etc. They should do that out of their general fund. Liberty Fund donations were for the surviving families.

These Liberty Fund donations should not be commingled or used as a deduction to penalize these 5,000 families from receiving any other charity funds or government assistance. The donors did not attach "means" testing conditions. They did not exclude those of higher income. They did not exclude firemen, or policemen. They may have made a reasonable assumption that illegal aliens would not qualify, since they were lawbreakers. Those here on current work visas would certainly not be disqualified.

I have a letter from Mr. Blaul stating that there was no "means" testing, yet, he will not explain why some families received a larger check than others. Nor, why they have not mailed a check to at least 2,000 families that lost a family member on 9/11. It was Red Cross' responsibility to get the money to the families. **If they could not or would not do that, what was the point of a**

donor using the Red Cross as a clearing house? Why are the families required to come begging, and have to fill out a myriad of forms that no doubt ask them about their assets and other income sources? The donors did not intend for their donations to be distributed in some subjective manner. A family who's spouse had a $100,000.00 income has mortgages, utilities and financial responsibilities tied to that income. Do these pathetic Red Cross elitists and case workers feel that they deserve less? Deserve to lose their homes and cars? Deserve to have to move and disrupt their children's school? Lose their equity in their homes in discounted sale or bankruptcy? Deserve to lose the standard of living their spouse had worked hard for them and their children? What about those who worked or were visiting there from other countries? **This was the WORLD Trade Center. Is the Red Cross trying to calculate in yen or bolsas what these people deserve based upon the strength of their dollar in their country? THIS IS ABSURD, and UNETHICAL**, and probably illegal. So the Red Cross might argue they call victims and ask what they "need." Well the short answer is they need it all! One five thousandth of $560,000,000. **They need it now, and THEY should be earning the interest on any that they are able to put in reserve in their own personal accounts.**

It was reasonable for donors to assume the Red Cross was trustworthy, prepared, and equipped to have a complete data base of the surviving families names and addresses for the Liberty Fund, and bookkeepers to do the math of dividing the sums for distribution on a bi-monthly basis, as a paycheck would normally come into a household. If they were not willing or able, we could have inquired for names of families and mailed a check directly to them.

It was our understanding that a non-profit organization is legally obligated to the parameters of the purpose stated in soliciting the donations; and, that those funds could not carry over into another year if not stated clearly at the onset. At the point of carry-over they would violate their non-profit status for that Liberty Fund.

This should not be thrown in the lap of the IRS to "track." **The Red Cross should be directed to either refund the donations or distribute them and the interest earned in the past two months to the surviving families in accordance with the total $$ donated divided equally among the surviving families of those deceased.**

I would be happy to provide the letters I have sent and received from the Red Cross: Mr. Blaul and Ms. Doggett to substantiate what I have stated here.

M.C. Gosnay

Statement of the Hon. Wally Herger, a Representative in Congress from the State of California

Thank you Chairman Houghton and members of the Subcommittee for holding this hearing, and for permitting me the opportunity to submit this statement.

On September 11, our Nation suffered unimaginable losses. Since then, Americans have responded with extraordinary generosity, opening their hearts to the families of the victims of the terrorist attacks. These recent donations—estimated at over $1 billion—along with ongoing and increased government support will provide vital assistance to victims and their families.

Still, we are all concerned to hear the recent reports that funds American families have donated to support the victims of the September 11 attacks may not be reaching their intended beneficiaries. Mr. Chairman, I commend you for holding this timely oversight hearing today to explore whether these concerns are founded, and if so what can and should be done about that.

As the Chairman of the Ways and Means Subcommittee on Human Resources, I can see already how the government's safety net is being stretched in response to growing needs following September 11th. The unemployment rate is now the highest we've seen since 1996. In October over 400,000 Americans lost their jobs, and more layoffs are expected. This will test our Nation's unemployment, welfare and related social service programs in the months ahead.

Congress already has responded. Within days after the attacks, Congress passed and the President signed into law an emergency spending bill providing $40 billion for our Nation's initial response to this tragedy, including billions of dollars to support families and businesses affected in the New York and Washington, DC areas. More recently, as part of the House economic stimulus package, we made an addi-

tional $9 billion available to help States pay unemployment benefits and $3 billion for health care expenses for dislocated workers.

Clearly, the Federal Government has a role to play and we will be there when people need help. However, government cannot and should not go it alone. For years charitable organizations have played a critical role in supporting those in need. Now more than ever, we need to ensure that private donations are put to work to assist families directly affected by the terrorist attacks. That will have two important effects. First, it will limit pressure on public resources to handle these needs alone. That means less pressure to raise taxes or cut other spending to keep the government's budget balanced. But even more importantly, it will confirm for the millions of American families who made charitable contributions in recent weeks that their sacrifices were not in vain and that they are helping their fellow citizens. That connection binds us together, especially in times of crisis like these.

The American people demand accountability with their tax and charitable dollars. Right now, more than anything, they demand compassion and they demand fast action. Charities and government agencies must ensure that families receive the help they need and that they get it as efficiently as possible. The families affected by the September 11 attacks have suffered tremendous loss. They must not be made to suffer again by enduring red tape and confusion while trying to access the help their friends and neighbors have so generously offered.

In the weeks since September 11, Americans have stood resolved and we have stood together. I watch this as a citizen, a Member of Congress and the Chairman of the Human Resources Subcommittee, and I am filled both with great pride. I am heartened to see the generosity of Americans. I also commend the numerous charities and the local and Federal Government agencies that have been on the front lines assisting victims and families in these difficult times.

But I remain concerned that these efforts are coordinated and effective. The stories of widows traveling from agency to agency, completing form after form, and not receiving one dime are unacceptable. We must ensure that charities get assistance to the families that so desperately need it. Today's hearing is an important part of the process of better coordinating those efforts, and I look forward to the testimony of all of our witnesses on how best to get this job done.

Statement of Sara Meléndez, Ph.D., President and Chief Executive Officer, Independent Sector

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to submit this written statement for the Congressional Record on your hearing examining the response of charitable organizations to the recent terrorist attacks.

Independent Sector is a nonprofit, nonpartisan coalition of more than 700 national nonprofit organizations, foundations, and corporate philanthropy programs, collectively representing tens of thousands of charitable groups in every state across then nation. Virtually all of our member organizations have been actively involved in addressing the needs of people throughout the nation and, indeed, the world, in the aftermath of the tragic events of September 11. We commend Chairman Houghton, Ranking Member Coyne, and the Committee for their leadership in examining the work of charitable organizations working in the relief and recovery effort to assure those who have contributed to this effort that their funds are being and will be well spent.

The outpouring of generosity from the American people in response to the terrorist attacks has been as unprecedented as the attacks themselves. Never before have so many Americans given so much in such a short time to a single cause. According to a poll conducted by Wirthlin Worldwide for Independent Sector in early October, seven of ten Americans gave money, donated blood, or volunteered in some way to help. Over 150 organizations have received or been pledged more than $1.2 billion for their various September 11 funds. The size and complexity of this philanthropic response is a direct reflection of the size and complexity of the relief effort.

Charitable organizations were able to step in quickly in the New York area and in our Nation's capital to support and supplement the work of government rescue and relief workers. Survivors of the attacks have received medical attention, mental health and grief counseling, and assistance with a variety of other immediate needs. Families of victims who were lost have received financial assistance, temporary housing, and counseling. Agency staff have provided assistance in navigating a confusing maze of interlocking government programs and regulations necessary to

verify the status of loved ones and obtain applicable government aid and insurance payments, particularly for those encumbered by disabilities or language barriers. Private philanthropic assistance has taken the form of both direct financial assistance and a wide range of services to help survivors, families of victims, and thousands of others directly impacted by the terrorist attacks.

The process of providing relief assistance has posed many challenges. Agencies in the New York area faced severe communications barriers in the days immediately following the attacks. While many agencies had experience in collaborative efforts, none had worked on a tragedy of this scope and scale where the public-private collaborative effort involves so many agencies and so many victims. The initial coordination among the agencies receiving funds and providing services has been slower than many would desire, but real progress has been made in a relatively short period. New York City relief agencies have been meeting weekly to discuss gaps, how to fill them, and how to avoid duplication. An 800-number has been established to direct victims to the appropriate sources of assistance. The September 11 Funds in New York and Washington have appointed stellar advisory committees composed of community leaders and experienced service and administrative professionals to establish guidelines and oversee procedures for distribution of the funds that have been raised.

The relief funds must be fully accountable to both the victims of the terrorist attacks and all those who made financial contributions to support the effort. Developing and implementing procedures to make sure that financial assistance is distributed to the intended recipients and not to fraudulent claimants is time-consuming and complex but critical to sustaining the integrity of the relationship between the funds, the victims, and the donors. Funds must also provide full accounting to donors who have stated that their contributions must be restricted for specific purposes, as well as to those who provided general support to the relief effort.

The scale and scope of the September 11 tragedy requires a strong degree of cooperation and collaboration among government agencies and private philanthropic and voluntary agencies. Independent Sector applauds the efforts of the Attorney General of New York and all of the relief agencies that are working together to create a coordinated database that will help to reduce duplication in providing financial assistance and ensure that all victims receive appropriate financial assistance. It is vital that this collaborative effort protect the privacy of those seeking assistance while meeting the desired goal of distributing funds as quickly and as equitably as possible.

Clear procedures for distribution of government funds allocated to the relief effort should be established as quickly as possible to inform and assist private relief efforts as they struggle to allocate resources between immediate crisis needs and the long-term needs of those affected by this disaster. Private, voluntary contributions are intended to supplement, *not* replace, publicly-funded relief efforts. Leaders of relief agencies need information about government programs to assist victims in determining their eligibility and applying for government funds, as well as to inform their own decisions about how to distribute their own resources to address remaining gaps.

The Federal Government has a key role to play in the audit and oversight of charitable and philanthropic nonprofits, but it is not appropriate for government to direct the operational matters of private relief organizations. Charitable nonprofit organizations have earned a high degree of public trust by being effective in their work, accountable to their multiple constituencies, and good stewards of their resources. Appropriate government regulation is also essential to preserve this high degree of public trust, and Congress should work to ensure that those agencies charged with oversight of tax-exempt organizations and charitable solicitations have sufficient resources to ensure adequate enforcement, regulatory guidance, and public reporting procedures are developed and sustained. Independent Sector and its members are committed to working with the Internal Revenue Service, the primary federal agency charged with oversight of the charitable and philanthropic sector, to ensure even stronger compliance with existing regulations and stronger accountability to the public through refinement of reporting procedures and improved regulatory guidance to charitable and philanthropic organizations.

INDEPENDENT SECTOR welcomes the opportunity to work with this committee and Congress to ensure that the relief effort continues to provide the high quality of service and the high level of public accountability that has inspired the strong confidence the American people have entrusted to our charitable and philanthropic organizations.

Statement of Karin Kunstler Goldman, President, National Association of State Charity Officials, New York, New York

As Congress focuses on the activities of charitable organizations in response to recent terrorist attacks, the National Association of State Charity Officials (NASCO) encourages all efforts to instill accountability of charitable dollars that citizens of the United States and people across the world have given to help the victims of the horrendous disasters in New York City, Washington, D.C., and Pennsylvania.

NASCO applauds the efforts of New York Attorney General Eliot Spitzer to coordinate WTC Relief efforts and Virginia's Governor Gilmore leadership in establishing the Virginia Post-Attack Economic Response Task Force. Chaired by Barry E. DuVal, Secretary of Commerce and Trade, the task force consists of six committees and coordinates all efforts with FEMA. Dr. Louis F. Rossiter, Secretary of Health and Human Resources, chairs the committee on Coordination of Charitable Assistance, which unites charitable health and human services organizations and local government in the Northern Virginia area to avoid duplication of services and financial aid for those affected by the Pentagon attack.

NASCO is an organization comprised of offices of attorneys general, secretaries of state, bureaus of consumer protection and other state agencies, all with common goals of protecting and enforcing the charitable intent of donors in each of the respective states. Although NASCO does not speak on behalf of any particular state or agency, it has a collective concern regarding accountability in the area of charitable fundraising and distribution of funds raised.

Sympathies have run very deep in the aftermath of the disasters and many reputable charities stand ready to help. However, Americans can be certain that some unscrupulous individuals will come forward to exploit this outpouring of goodwill across the Nation. Tips for charitable giving have been distributed by numerous agencies and philanthropic institutions, but accountability is of paramount concern.

When money is raised for a particular charitable cause, the public believes the funds they contribute will be used for that specific cause and the laws of most, if not all, states require that the funds be used for that purpose. The fiduciary duties imposed upon the charities mandate such use. Unless charities responsibly comply with those duties, donors will never have the assurance that their contributions are used for the intended purposes.

NASCO is heartened by the decision of the Red Cross to reverse its initial decision to use funds raised for September 11 disaster relief for "general disaster relief" funds. Given the creation of the Liberty Fund to address specifically September 11 disaster relief and the unprecedented charitable giving immediately following the attacks, the public deserves the assurance that their contributions will be used as they intended. We all must be accountable to our citizens, no matter what size the agency or what size the charity. Monies raised must, in all circumstances, be maintained and distributed as part of a public charitable trust. We must all look for solutions to ensuring confidence in that public trust.

Statement of Nancy Anthony, Oklahoma City Community Foundation

Lessons Learned for Charities from the Oklahoma City Bombing

In April 1995, the bombing of the Murrah Federal Building in Oklahoma City represented the most devastating terrorist attack, at that time, on American soil with 168 deaths and more than 600 others injured. More than $40 million was contributed by individuals and organizations across the country to at least 70 different funds in Oklahoma City to assist those who were affected by the bombing.

A group of the major charities, American Red Cross, Salvation Army, United Way, Oklahoma City Community Foundation, several church social service organizations and community mental health organizations, were the recipients of a majority of these funds and worked directly with the individuals and families affected. A number of independent funds, sponsored by civic groups, financial institutions, professional organizations and others also received significant contributions through their contacts and networks around the country but did not have either the staff or process in place to work directly with individuals to determine needs.

The current situation in New York City is much larger in terms of total size but not much different in relationship to the size of the population base and for the number of deaths involved in the tragedy. Events in the tragedy are unfolding in

a very similar way: a chaotic response driven by the flood of charitable contributions, charities struggling to services in place which will help people affected, concerns about coordination, duplication, fraud and frustrating bureaucracy, a high level of media attention to the flow of funds and questions how they are or are not utilized, the misunderstanding and anger which flows from individuals about the process of receiving assistance, and the perception that someone should be "in charge" of a disjointed system of independent, basically unregulated charities that generally receive very little scrutiny. The extreme emotional trauma related to the loss of life is the force that drives the process, both for the individual case and for the larger community. How individuals and families respond to these events and work through that trauma will be reflected in the charitable activities and process which come from the events. Since anger is part of the grieving process, the charities and the community should expect that anger and frustration will occur and probably be directed at them.

The group of charities that faced similar challenges after the Oklahoma City bombing learned some lessons that could be helpful to New York. We are not wiser, just battle-scared: we have already made many of the mistakes which await you. We are not smarter, we just have the benefit of seeing the effect of what we did. We have been asked the technical questions: how to set up a data base information system; what criteria to use for mental health services. But the bigger question is what did you really learn that would help New York or any other city?

Before that question is answered, the situation must be put in some context. First, no organization, even the American Red Cross, has significant experience dealing with the large numbers of tragic deaths, the emotional issues, the media attention and the administrative challenges of millions of dollars created by situations like those in New York and Oklahoma City. No organization has practiced, trained for, planned for, or even expects this type of situation to happen. Second, there is no formula or policy that balances the tension between equity and needs in the use of funds. The tensions that develop around the distribution of money are significant, and there are a variety expectations, most of which are not developed in the context of the rules of the I.R.S., or an understanding of limitations of money in the healing process. Third, the funds that charities have are not compensation funds, or court settlement funds or insurance payments. They are charitable contributions given by thousands of individuals who want to help those affected and want the charities to be good stewards of those funds. For most donors, these gifts are their individual efforts "to help," the only way that most have to provide any assistance.

What then are the lessons which were learned in Oklahoma City? First, money is limited in its effect and must be coupled with services and be used with the goal of helping people survive and go forward with their lives. The focus on the total amount collected and the expectations about its distribution often detract from the central purpose of the funds, which is to help the recovery process. The effectiveness of the charitable effort will not be measured in whether the money was divided and distributed, but whether the people who need assistance receive the services they need and are able to move forward with their lives. We have too many instances in Oklahoma City where funds were given to families with no additional services and later, the helping agencies were called back in and to provide counseling, coordination and financial assistance. Money itself does not provide healing or encouragement in the recovery process.

Second, the individuals and families that are being helped are very distressed people and even with the best assistance and support, they will not be happy, nor should we expect them to immediately forget their loss. People who work at charities receive a lot of satisfaction from helping individuals and seeing results. Because the grieving process is a long and very emotional road, the effort to help does not produce individuals and families who feel satisfied or appreciative, at least for a long time. It is very easy for the media to find unhappy or frustrated people and to assume that charities have not done their jobs. Expect anger, complaints, and criticism and help your employees understand that it is part of the process of grieving. Continue doing your work.

Third, cooperate, cooperate, cooperate. Work with other agencies and service providers and funds as much as possible. The individuals whom you are trying to help should not have to navigate through different bureaucracies and understand issues of charitable turf. Don't worry about who will get the credit or the criticism. In Oklahoma City, the charities cooperated from the beginning because we knew that the task was too big for any one group, and that we had to work together to deal with the size of challenge. Maybe that realization came from dealing with too many tornadoes over the years. In any case, cooperation was the expectation of the larger agencies and most of the funds and smaller organizations accepted the standard.

Because we had worked together so much, when criticism of one agency appeared in the media, the whole group of cooperating charities and funds were quick to provide support. Our individual efforts really were viewed as part of the community's effort. We got more done as a team than individual groups.

For many people, the effort at recovery will take a long time and thus, the assistance of the charities will necessarily be long-term. We are still working with a number of cases in Oklahoma City that require special efforts for the families to recover. Accountability to the public and to donors is extremely important and reporting on expenditures should be part of the stewardship to build trust for future situations. The I.R.S. has rules related to the distribution of funds to individuals that need to be considered by any qualified charity. These rules are not well known but have an enormous impact in these situations.

Lastly, we avoid using the term"victim" to describe those who are affected by the tragedy. A Salvation Army Major and veteran of many natural disasters said, "The only victims are those who died; everyone else is a survivor." And truly, "survivor" does put emphasis on the need to look forward and not to dwell on what happened. Avoid creating a "victim" mentality among those who are receiving assistance. Charities cannot do anything about the tragedy, but they can begin to help individuals look to the future and restore their lives. We cannot begin to compensate anyone for their loss. All we can do is help those who really do wish to be survivors.

Remarks to the NY State Assembly Hearing, November 7, 2001
Nancy B. Anthony

The bombing of the Federal Building in Oklahoma City in April 1995 killed 168 individuals including 19 children. There were approximately 600 injured including 83 which were admitted to the hospital. It is estimated that about 3,000 individuals were directly affected as family members of those who were killed, those who were injured, those who worked in the Murrah Building or one of the five other buildings which were seriously damaged by the explosion or lived in apartments in the area which were damaged or destroyed. An additional 3,000 individuals were received some type of assistance because of economic impact or mental health needs.

Approximately 40 charitable organizations and independently established funds solicited or received contributions to help those who were affected by the bombing. Additionally at least 30 other funds were established for individual families or small groups. Approximately $40 million in charitable contributions was received by these organizations and independent funds. The local chapter of the American Red Cross received the largest amount, about $18 million, and the 15 different funds at the Oklahoma City Community Foundation, including the Mayors Fund and the Governors Fund, received about $14 million. Other significant charities involved were the United Way, the Salvation Army, Feed the Children, and several church social service organizations. These ten or so larger and staffed charities worked in a very cooperative manner to deal with the needs of individuals related to the bombing.

The cooperative efforts in Oklahoma City had three main goals:

First, to provide effective services to the primary target group: the families of those who were killed and those who had critical injuries.

Second to make the system as efficient as possible: to keep individuals who needed help from having to deal with multiple agencies, to prevent duplication, to discourage fraud, and to insure that everyone who needed assistance was provided an opportunity to receive it.

Third, to be accountable to the donors and to the public for the expenditures of funds and to insure the public that funds were used for the purposes intended.

The system which eventually developed in Oklahoma City worked well in meeting those goals but what we actually wound up doing developed over a three to six month period of time. We did not sit down one afternoon and design the cooperative arrangements but tried a variety of things, continued what worked and discarded what didn't. The system had three main elements, all of which were extremely important to the goal of providing services which were effective, efficient and accountable:

First

The database which was primarily a registry of the family members of those who were killed, injured, or in the affected buildings. Eventual it contained the names of most who had received any significant assistance. It was operated by the United Way and each of the 40 primary agencies providing direct service had a terminal with a direct link.

Second

Each family where there was death or critical injured had a case manager, a social work professional or trained and experienced volunteer who worked with the family to review all the needs and resources which might be available to them, to help them get financial, legal and mental health services needed, and to serve as an advocate for that family with any other agency or fund which might assist them. Because of the data base and the case manager system, most families had to complete basic information request forms at only one organization.

Third

The unmet needs committee was established about seven weeks after the bombing. The case managers and helping agencies would bring needs of individuals and families which had not been met to the committee which also included independent funds operated by civic groups and others with no staff. Large financial needs such as uninsured hospital bills, assistance with automobiles and housing modifications needed were addressed by this group. The committee met weekly for more than two years and continued for almost six.

This system was fully functional within four months after the bombing and most elements of the system continued for more than five years. Currently there are two primary service providers, the Oklahoma City Community Foundation and the American Red Cross, and approximately 30–50 active cases. Most of the still-active cases related to families with serious injuries, families with living arrangements for surviving children which need to be supported and individuals with serious mental health needs. Services are as important as financial assistance for most of these long-term cases.

I would like to make three comments to you related to what we learned in Oklahoma City. These comments are not based on any prior wisdom but simply the experience of seeing what works and what doesn't and having seen a process go through the long-term. These observations could not have been made three months or six months out because we really had no idea what would eventually happen in the chaos and emotional intensity of those first few months.

First, the problem which the charities are addressing is really not one of distributing money but helping people restore their lives. Charities don't divide money up, they help people. The process of both grieving and moving forward is slow, requires patience and support and is different for every family. The helping agencies involved in this process are the best organizations in the community to provide the services which are needed by individuals. Many of the issues which we addressed in Oklahoma City with families did not appear until six months or a year out. This is a long-term process and it should be focused on the ultimate goal of helping people move forward, not the short term division of funds. It is much easier to divide and distribute money than it is to help people recover from tragedy.

Second, the coordination of services was and the cooperation of organization, all of which was completely voluntary in Oklahoma City, was absolutely essential to our efforts and to maximizing the assistance which was given while minimizing the bureaucratic hassle for the families. Cooperate, Cooperate Cooperate. Don't worry about who has the money or who gets the credit. Don't make families have to navigate turf issues between organizations. Make it as easy as possible for them to receive services, not just money. A helpful case worker can ease the anxiety and relieve frustration of many in the near-term and help people focus on going forward.

Third, all of these families are in the grieving process and anger is a significant stage of that process. Don't expect that people will be happy or satisfied with what is happening because they are very emotionally distraught and angry and upset about what has happened to them, and they have every right to be so. Politicians and media representatives should be very careful in their criticism of charities based on the anger and frustration of the families of victims. Our experience in Oklahoma City was that it took almost a year for most families to work through that process. It is very easy to find families who have not received what they think that they should, especially when their expectations of money are raised by continual media stories and attention to some grant total of what has been contributed. In Oklahoma City, charities had to continual focus on the services they were trying to provide and continually state the message they were trying to help people move forward. The examination and review process should look at what the charities have really done, and ultimately whether individuals they helped have been able to move forward to live their lives in some independent way.

Conclude with an important perspective that was very helpful to our organization:

Survivor vs. Victim story.

Statement of Philanthropic Research, Inc. (GuideStar), Williamsburg, Virginia

The events of September 11 have created an enormous outpouring of generosity from the American public. By all accounts, more than $1 billion has been donated to the relief efforts. Scores of new charitable organizations have joined established groups such as the Red Cross and the Salvation Army in raising and distributing funds. This outpouring of generosity has been accompanied, however, by a healthy skepticism. The general public and the governmental bodies that oversee public charities want to be certain that the funds are being distributed wisely, efficiently, and honestly. Specifically, the House Committee on Ways and Means, Subcommittee on Oversight, has asked "whether there should be coordination of the charitable response, whether applications for assistance are too cumbersome or duplicative, whether funds are flowing quickly enough to those in need, and what are appropriate uses of these funds by charities." In announcing the hearing on this subject, Chairman Houghton noted, "I want to believe that if a person gives money to help another—through a charitable organization—that money should end up as quickly as possible in the hands of the one who needs it."

GuideStar is a program of Philanthropic Research, Inc., a 501(c)(3) public charity that provides information on all charitable nonprofit organizations in the United States that the IRS has designated as being able to accept tax-deductible contributions. From our vantage point, we can see a problem with the underlying information infrastructure that makes it difficult for charities to respond quickly to a disaster. In fact, we have observed that the questions being raised about the charities' response to the events of September 11 reflect an unfortunate truth: ***Those who are directly involved in the relief effort—the public, the beneficiaries of their generosity, the governmental bodies that oversee charities, and the charities themselves—do not have enough information to support a coordinated nonprofit response to disasters or to satisfy public confidence that the response is honest, fair, and efficient.***

Since September 11, GuideStar has worked closely with the IRS and the New York State Attorney General's office to provide information where needed. Considering the enormity of the events, this informal coordination has indeed been valuable. GuideStar recommends, however, that such coordination should become formalized. The states and the Federal Government, along with interested parties such as GuideStar, should collaborate to create an efficient way to share reliable data with each other and with the general public. This information needs to be collected and in one place long before an emergency occurs, so that charities can distribute funds immediately instead of first scrambling to find each other and to determine which organizations best serve which needs.

The following comments will clarify the position set forth above by describing GuideStar and its activities in response to the events of September 11, explaining why the current system is insufficient and inefficient, and recommending a solution to the problem. Should the Subcommittee on Oversight of the House Committee on Ways and Means require further explanation or documentation to substantiate any of the statements made in these comments, GuideStar would be happy to provide it.

GuideStar and the Events of September 11

GuideStar's mission is to revolutionize philanthropy and nonprofit practice with information. Together with the National Center for Charitable Statistics (NCCS), we have built a database of extensive information on all charitable nonprofit organizations in the United States. The IRS's Business Master File provides the basic information that underlies the database. Additionally, each month the IRS sends GuideStar and NCCS scanned images of the annual financial reports that the larger charitable organizations file with the IRS—the Forms 990, 990–EZ, and 990–PF. Upon receipt, GuideStar posts the images of these IRS forms to our Web sites and then keypunches more than 300 fields from the Forms 990 and 990–EZ, in order to present the information in a user-friendly format. In addition to the IRS data, GuideStar collects qualitative information from the charities themselves. We now count more than 40,000 nonprofit organizations as voluntary GuideStar Participants. This base of information has become the functioning national data infrastructure for the nonprofit sector, to the extent that one exists.

GuideStar presents this information through its Web site, which offers a free, searchable database of reports on more than 850,000 nonprofit organizations. This Web site hosts approximately 20,000 users per day, among which are the staff from

2,500 major institutions that use GuideStar 10 or more times a week. These institutions include foundations, state and federal agencies, large operating and financial companies, professional service providers, universities, and nonprofit organizations.[1] GuideStar also offers value-added information services to subscribing institutions.[2]

In the aftermath of September 11, GuideStar has been active in working with the IRS to publicize the existence of charitable organizations that have received expedited recognition as new Section 501(c)(3) tax-exempt organizations. GuideStar has also helped several New York City-based groups identify nonprofits that can aid in the relief efforts as well as those that need help in rebuilding their services. Finally, GuideStar supports the New York State Attorney General's WTC Relief Info Site with information and promotion.

Inefficiencies of the Current Information Infrastructure

Despite GuideStar's progress in launching a functional national database and in cooperating with those who need information in the aftermath of September 11, the current information infrastructure is insufficient to quell the uncertainties surrounding the distribution of funds that the American public has so generously donated. This uncertainty is not a function of greedy or poorly managed charities run amok. Rather, it results from a system that embraces antiquated technology, burdens charities with disparate and often arcane reporting requirements, and still manages to fail to inform the public and on-the-ground decision makers about charities' activities.

In addition to the efforts that GuideStar and NCCS expend toward creating a national nonprofit database, more than 40 states, the IRS, other governmental agencies, and hundreds, if not thousands, of grant makers all ask charitable organizations to provide information about themselves. These multiple reporting requirements are inefficient and expensive, for the charities, the states, and the IRS. Charities often repeat the same information multiple times and in slightly different formats. Often they file the same paper-reporting document (generally the Form 990) with the IRS, with every state in which they conduct fundraising activities, and with every foundation to which they apply for funding.

This system is as inefficient for the IRS, the state charity officials, and the grant makers as it is for the charities themselves. Many digitize some or all of the information they receive, thus creating thousands of incomplete charitable databases and losing the opportunity to create a single, authoritative database that charities and the public could tap into in times of emergency. The National Association of State Charity Officials (NASCO) estimates that efforts of collecting and recording information consume fully 50 percent of state charity offices' budgets. Such inefficiencies prevent government officials from concentrating on their primary purpose—oversight of the charities in their jurisdiction.[3]

Despite all the collection of data, no one is confident that an accurate list of American charities exists. Small nonprofits that need not report their functions to the IRS often fail to notify the IRS when they cease operation. As a result, the IRS list of charitable organizations includes thousands that are no longer active. Additionally, the duplication of efforts can lead to inaccuracies in charitable reporting. An organization that provides similar information to 100 sources is less likely to be careful in its reporting than it would be if it provided the information once but knew the information would be used by 100 organizations.

Finally, no system exists for sharing information among the governmental units or any other data-demanding agencies and institutions. As a result, each entity collects and digitizes the same information, and they often collect the same paper forms. Needless to say, when such institutions have no system for sharing information, they are equally unlikely to obtain all the information they need to make effective decisions.

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[1] GuideStar tracked more than 1,700 organizations that used its services 10 or more times a week during a two-week period in August 2001. This list is incomplete because GuideStar's Web tracking software can only track organizations that use their own servers; those that route their traffic through an ISP, including GuideStar, were not identified.

[2] NCCS uses the data to create data sets and analysis for the research community and policy makers.

[3] Budgetary constraints also prevent charity oversight from occurring to the extent that state charity officials and the IRS would like. Despite an explosion of charitable organizations in the last few years, the IRS tax-exempt budget has not increased enough to allow it to audit as many charities, on a percentage basis, as it did in the past. Although the IRS plans to increase the percentages of audits in the next few years, one cannot underestimate the difficulty of performing these functions without sufficient resources. Nor can one underestimate the importance of state oversight in maintaining the integrity of this vital sector of our economy, particularly when the public appears to be questioning the integrity of the nonprofit sector.

How the Inefficiencies of the Information Infrastructure Affect the Response to a Disaster

The system described above is inefficient in the best of circumstances. When an event such as September 11 occurs, disorganization and fraud, or at least the perception of fraud, are almost inevitable. The information is not in one place; it is not coordinated; and it is not as accurate as it should be. As a result, all of the major players in the response to these events are handicapped: (1) those who are coordinating the relief efforts, (2) the IRS and the state officials who oversee charitable activity, and (3) the general public.

Those who are coordinating the relief efforts need instant access to accurate and useful information in order to perform several functions that will need their immediate attention. First, they will need to coordinate with each other to determine which organizations are providing relief to which parts of the community and for which services. Second, in many instances they will need to find and fund the best organizations to provide the direct relief to victims, for many of the organizations that collect the funds do not actually carry out the relief efforts themselves. Finally, these organizations need to identify nonprofit organizations that may require assistance themselves. If the information is insufficient, the organizers of the relief efforts will spend time and money finding this information instead of helping the victims.

After September 11, the weaknesses in the current system became apparent. GuideStar received calls from several organizations, asking if we could help them determine which nonprofits were providing services and which needed help in restoring services. GuideStar also made proactive calls to organizations that were not aware that any information was available at all. To date, we have provided data sets of information about New York City charities to seven organizations—NPower NY, Compumentor, Nonprofit Finance Fund, Lawyers Alliance for New York, Fund for the City of New York, the Attorney General's Office of New York, and Bain and Company (on behalf of several consulting firms doing an economic impact study on the effect of the events of September 11 on the city's charities).

The New York Attorney General's office was among the organizations that called us. It quickly created its own Web site, which used information from GuideStar but also requested that charities report their activities to its office. Such an information-gathering site is, unfortunately, necessary under the current circumstances, but every form a charity must fill out takes it away from providing primary services to victims and survivors.

Meanwhile, the September 11th Fund, which distributes the donations it receives to other organizations that carry out direct relief, must rely on information from the New York City United Way to determine which charities can do such work quickly and effectively. Fortunately, the United Way has already collected information on many, if not most, of such organizations in New York, but that information is not coordinated with the data that GuideStar and/or the other relief organizations have collected.

Those organizations that do provide direct relief must know which charities need their help. This is especially important in order to prevent the entire charitable network from collapsing. Shortly after September 11, GuideStar heard that many of the needy who were not directly affected by the events of that date were going hungry because the charities that normally helped them had been affected.

So long as information is insufficient for charities to meet these needs, organizers of the relief efforts will spend time and money finding this data instead of helping victims. With improved information, however, they should be able to speed up the coordination and ensure that funds land more quickly into the hands of those who need them.

The IRS and state charity officials also need the same type of timely and accurate information to prevent and detect fraud. If questions arise about an organization, they need to know whether that organization is recognized by the IRS, how it spends its money, and whether any other governmental entity has had difficulties with this particular organization. The system GuideStar proposes will facilitate charities officials' information-gathering requirements and allow them to concentrate on their oversight and enforcement missions.[4] This oversight has always been important, but with huge events like September 11 and with the advent of Internet philanthropy, it will increasingly become even more critical to maintaining the integrity of the philanthropic response to a disaster.

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[4] The IRS and state charity officials do a remarkable job of policing the nonprofit sector, given the inadequacies in the information infrastructure and the lack of resources for their oversight function. If the resources now devoted to collecting and managing information could be allocated to detecting and preventing fraud, however, their effectiveness should increase.

The general public is also ill served under the current system. With partial databases in hundreds of locations, individual donors cannot be sure that they are making informed decisions about their contributions. They do not know which organizations provide relief efforts, how quickly the nonprofits have mobilized in the past, or whether the organizations are fiscally responsible. Nor can donors be sure that the charities have coordinated their efforts efficiently or that the strongest possible anti-fraud enforcement mechanisms are in place.

Complicating the issue is the rapid growth in Internet philanthropy. Donors and state charities officials are quickly realizing that both legitimate charities and fraudulent opportunists will find ways to use this new medium to raise money quickly. The online response to September 11 has been remarkable. If we do not act equally quickly to resolve these issues, philanthropy could plunge into chaos. Fortunately, Internet technologies hold an answer to this problem.

Recommendations

The obvious solution to the inefficiencies described above is national coordination of data. The states need to work together, as well as with the Federal Government and interested groups such as GuideStar, to create a single reporting system for charities. This system should be a mandatory electronic filing system that makes information about charities and all actions taken by government agencies against the charities accessible to all states and the IRS. The states and the IRS will then be able to share this information with each other and with the general public, when appropriate.

Virtually all of the inefficiencies and confusions that have been described above can be solved through the simple solution of electronic filing of charity information.

- **First,** the extraordinary expense of the current system of data management will be reduced substantially. Although a single electronic reporting system will have substantial costs, they will be less than the combined costs of the current disjointed system.
- **Second,** state charities officials and the IRS have more important missions than collecting and storing data in 40+ separate systems. Once a common repository for charity information is established, the states and the IRS will be able to spend a much larger percentage of their scarce resources on charity oversight and enforcement.
- **Third,** mandatory electronic filing can apply to all organizations, even the smallest, if only to make them affirm to the IRS on an annual basis that they are still in existence. Such a system will ensure that the list of charitable organizations is up to date and accurate.
- **Fourth,** up-to-date, comprehensive information about charities can speed the response to disasters. It will allow groups coordinating relief efforts to find partners to join those efforts and to find organizations that might need help themselves. It will also allow the coordinators, the state charities officials, and the general public to determine whether a specific organization deserves their support.
- **Fifth,** the considerable reporting burdens that public charities now face will be lessened, enabling the organizations to devote more resources directly to individuals who need their services.
- **Finally,** a single, electronic filing system will create greater transparency in the nonprofit sector and ultimately allow the public to have more faith that its generosity is being rewarded through an efficient system of charity allocation.

There already is a movement to institute mandatory electronic filing of charity information. The principal nonprofit leadership groups are on board, and NASCO is eager to work with the IRS on this project. Obviously, the support of Congress is essential. In the aftermath of September 11, you have the opportunity to lead the nation in implementing a coherent charity information and oversight system. We recommend that you ask the IRS to work with the states to build a common data infrastructure. We also recommend that you provide sufficient resources for them to work with these other organizations in the organizational phase and for them to maintain the system once it is in place.

Conclusion

The experience of September 11 underscores a problem with our current charity information infrastructure. Despite the best efforts of honest, committed organizations, questions have arisen about the efficiency, fairness, and integrity of the process. The explosion in Internet philanthropy has added fuel to these concerns. The sheer size and complexity of the nonprofit sector, the proliferation of appeals, and the confusion of multiple state demands for information all cry out for a highly co-

ordinated, technology-driven strategy among the states and the IRS. If we embrace Internet technology and use it to its full potential to collect and disseminate information about charities in a single repository, we will go a long way toward shoring up confidence in philanthropy's ability to respond to crises in a coordinated, efficient, and honest way.

Statement of David Saltzman, Executive Director, Robin Hood Foundation, New York, New York

At the request of the Honorable Amo Houghton, Chairman, Subcommittee on Oversight of the Committee on Ways and Means, United States House of Representatives, I submit this testimony on behalf of the Robin Hood Foundation.

As of November 6, 2001, the Robin Hood Foundation has raised $47.5 million for the Robin Hood Relief Fund, $30 million of which was raised recently through The Concert for New York City on October 20th. The remaining $17.5 million was raised through other contributions from a diverse range of donors including Robin Hood's long-time supporters, corporations, Boy Scout troops, school groups and hundreds of individuals from around the country and abroad. The Robin Hood Relief Fund's Distribution Committee has approved grants to date of $12.978 million to organizations assisting the victims of the attacks on the World Trade Center.

I. THE ROBIN HOOD FOUNDATION

A. Our Vision

Established in 1988, the Robin Hood Foundation was started with the singular purpose of fighting poverty in New York City. Recognizing the systemic and enormous divide between rich and poor in the city, Robin Hood's founders wanted to do more than just throw money at the problem. Instead, they decided to apply the time-honored investment principles integral to their personal successes to seek out and partner with those charitable organizations most efficiently and effectively addressing the problems plaguing New York City's poor.

Over the past 13 years, Robin Hood has invested nearly $97.6 million in more than 100 grass-roots organizations. Robin Hood searches out the most effective programs—many of which were started by people trying to make a difference in their neighborhoods on shoestring budgets. Robin Hood observes first-hand the difference they are making—and the difference they could make with the proper funding and resources. After making an initial cash award to an organization, Robin Hood leverages and protects its investment by providing the organization with the support necessary to accomplish its mission—management advice, legal assistance, real estate help, accounting services, technical support and training. At year-end, Robin Hood measures the organization against previously agreed upon standards and determines whether the partnership should be furthered or discontinued.

Robin Hood's Board of Directors thus bases its funding decisions on the same kind of information used by the boards of America's leading corporations. Unlike a corporate board, however, Robin Hood's Board of Directors underwrites all of the foundation's operating costs, enabling every penny to reach the organizations that help the people who need it most.

II. CREATION OF THE ROBIN HOOD RELIEF FUND

In the week following September 11th, the Board of Directors of the Robin Hood Foundation established the Robin Hood Relief Fund at the urging of donors and community leaders. Our donors and community leaders knew they could rely on Robin Hood to identify the most effective organizations reaching out to the most needy victims of this tragedy and to distribute money to them efficiently.

Immediately after creating the Relief Fund, Robin Hood appointed a special committee of its Board of Directors to oversee and supervise its distribution. This Distribution Committee meets weekly to consider grant recommendations from senior Robin Hood program staff with extensive experience working with New York's diverse poverty-fighting organizations. In addition, the staff is working overtime to identify and bring before the Distribution Committee grant requests from organizations previously unknown to Robin Hood, yet effectively serving the most marginalized victims of this tragedy.

The Robin Hood Relief Fund immediately began distributing money to numerous organizations helping victims' families, heroic rescue workers, and other needy people impacted by the economic consequences of this tragedy. Consistent with Robin Hood's general mission, those administering the Robin Hood Relief Fund are determined to focus on the immediate and long-term needs of the lower-income victims

of this tragedy. The Robin Hood Relief Fund has targeted three classes of victims: those killed or injured in the attacks, those who have lost their jobs as a result of the attacks, and those whose fragility makes them especially vulnerable after the attacks. Thus Robin Hood has identified three classes of aid. First, the Relief Fund has awarded grants to organizations providing direct cash relief, food, and emergency social services to victims of the attacks. Second, the Relief Fund has awarded grants to organizations providing employment assistance to victims left jobless after the attacks. Third, the Relief Fund has awarded grants to organizations reaching out to victims less able to access charitable relief. The Relief Fund has already awarded grants comprising over 25% of its funds and plans to continue to give money away as expeditiously as possible, without compromising Robin Hood's high standards.

The Distribution Committee intends to administer the Robin Hood Relief Fund so as to help ensure that no needy victim falls through the cracks of the relief effort.

A. The Concert for New York

On October 20th, VH1, Cablevision, Miramax Films and AOL produced "The Concert for New York City" for the benefit of the Robin Hood Relief Fund. The concert's organizers, three of which are run by Robin Hood board members, selected the Robin Hood Relief Fund to be the charitable distributor of concert proceeds.

III. GRANTS TO CHARITABLE ORGANIZATIONS ASSISTING IN THE RELIEF EFFORT

As of November 6th, the Robin Hood Relief Fund Distribution Committee has voted to award $12.978 million in grants from the Robin Hood Relief Fund to the organizations described below.[1]

A. Robin Hood Relief Fund Grants to Organizations Providing Direct Cash Relief, Food and Emergency Social Services to Victims of the Attacks

1. Safe Horizons ($7,600,000)

Robin Hood Relief Fund has awarded a $7.6 million dollar grant to Safe Horizons to create a $6 million pool of cash relief for victims and their families, as well as to replicate the Family Assistance Center in each of New York's boroughs.

Safe Horizons, one of New York City's leading social service agencies, has provided direct cash relief, counseling and social services to those affected by the World Trade Center disaster. Immediately after the attacks, Safe Horizons was the leader among social service organizations, integral to the operation of the Family Assistance Center at Pier 94. While Safe Horizons will use the bulk of its grant to provide cash assistance to victims and their families, it will use the remainder of the grant to create six Borough Assistance Centers based on the Pier 94 model. It will also use the grant to offer on-site trauma counseling, support groups and job training to victims. Safe Horizons proposes that each center will provide individuals with case managers to assess needs and ensure that those needs are met.

In partnership with Robin Hood, Safe Horizons will develop guidelines for administering funds to ensure access for those who need them most and to prevent duplicate funding. The Robin Hood Relief Fund has extended such a large grant to Safe Horizons because the Robin Hood Foundation has partnered with it for years. Furthermore, the Relief Fund is confident that the organization, with a $35 million annual budget, twenty-three years of experience, and more than 650 full-time employees, has the capacity to expand operations to meet this crisis head-on. The Relief Fund will administer the grant in four installments so that it can closely monitor how Safe Horizons distributes the monies and reflect upon the best operating models for disbursement of the cash fund.

2. Twin Towers Fund ($3,000,000)

The Robin Hood Relief Fund has awarded a $3 million grant to the Twin Towers Fund to provide support for families of uniformed personnel who were killed or injured in the attacks. This fund was established by New York City Mayor Rudolph Giuliani.

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[1] This list does not include emergency grants of less than $10,000. The Robin Hood Relief Fund has awarded four such grants: $3,000 to the Andrew Glover Youth Program to help it continue its programs after being displaced by the disaster; $5,000 to the Bloomingdale Family Program to provide direct cash relief to victims and their families; $10,000 to Comprehensive Development, Inc., for mental health counseling and tolerance training to high school students affected by the disaster; and $10,000 to the HIV Law Center to enable it to continue its programs despite being temporarily displaced and experiencing significant disruptions in its communications system due to its proximity to Ground Zero.

3. Food for Survival ($200,000)

Robin Hood Relief Fund has awarded a $200,000 grant to Food for Survival so that it can continue its vital Disaster Relief Distribution Program for three more months.

As an integral part of the New York State emergency management network, Food for Survival has been the primary supplier of food, bottled water, and energy supplements to organizations serving those impacted by the World Trade Center disaster for the past two months. As the largest hunger relief organization in New York City, it was recruiting volunteers and purchasing product by dusk on the day of the attack. Since the attack, Food For Survival has increased its distribution tenfold, providing over 300,000 pounds of food as part of the disaster relief effort.

Food for Survival has established a 24-hour, 7-day-a-week, telephone hotline so that individuals and groups can locate food and supplies in their communities. It has also been operating an additional warehouse for food storage on behalf of the federal relief effort.

4. Association to Benefit Children ($25,000)

The Association to Benefit Children has been instrumental in the relief effort at Ground Zero. The Association will use its $25,000 grant from the Robin Hood Relief Fund to continue offering emergency mental health services to victims and rescue workers, conducting DNA testing to help identify the missing, and providing cellular phones and other communication support to manage relief work.

5. Abraham House ($25,000)

With its $25,000 grant from the Robin Hood Relief Fund, Abraham House will continue to provide emergency cash relief to families who have lost their income and are at risk of homelessness and hunger as a result of the disaster. It will also continue to provide emergency mental health services.

6. Little Sisters of the Assumption Family Health Service ($25,000)

The Little Sisters of the Assumption Family Health Service was awarded a $25,000 grant from the Robin Hood Relief Fund so that it can continue to provide cash relief to families who have lost their incomes and are at risk of homelessness as a result of the disaster. The organization will also continue to provide emergency mental health services to those traumatized by the attacks.

7. Community Food Resource Center ($25,000)

The Robin Hood Relief Fund has awarded a $25,000 grant to Community Food Resource Center so that it can relocate its headquarters located just a few blocks from Ground Zero. The Community Food Resource Center provides food as well as nutritional information and entitlement assistance to hundreds of hungry New Yorkers every day and has been extremely active in the relief effort.

B. Robin Hood Relief Fund Grants to Organizations Providing Employment Assistance to Victims Left Jobless After the Attacks

1. HELP USA ($500,000)

In an effort to mitigate the economic impact of the disaster, the Robin Hood Relief fund has awarded a $500,000 grant to HELP USA. HELP USA is providing job training and placement for low-income workers formerly employed at the World Trade Center complex. HELP USA is retraining these workers as security guards and will place them as positions become available.

2. Women's Housing and Economic Development Corp. ($175,000)

The Robin Hood Relief Fund awarded to the Women's Housing and Economic Development Corporation (WHEDCO) a grant of $175,000 so that its food-service job-training program, Urban Horizons, could continue preparing food and providing other necessities for the rescue workers at Ground Zero.

3. The Hope Program ($50,000)

The Robin Hood Relief Program has awarded a grant of $50,000 to the HOPE Program that has hired an additional job-development professional to assist the thousands of workers who have lost their jobs as a result of the disaster. In the past 16 years, the HOPE Program, a Brooklyn-based job training and counseling program, has helped transform the lives of nearly 1,000 men and women. The HOPE staff is preparing to help newly displaced workers by enhancing the job-search elements of its program. The new job-development professional will assist displaced workers, help find corporate partners and teach job-hunting skills.

4. Newtel ($50,000)

The Robin Hood Relief Program has awarded $50,000 to Newtel to hire an additional training instructor. Launched three years ago with Robin Hood seed money, Newtel has trained about 150 adults for telecommunications jobs and has a $1.5 million budget. Since September 11th, the organization has been inundated with calls from government agencies, dislocated worker counselors, and newly unemployed individuals seeking vocational opportunities and new careers to replace lost jobs. Newtel will only be able to meet this increased demand if it operates during evening hours and hires an additional instructor.

5. Opportunities for a Better Tomorrow ($30,000)

The Robin Hood Relief Program has awarded $30,000 to Opportunities for a Better Tomorrow (OBT) so that it can hire a job-placement professional. For the past 17 years, OBT has been operating in Sunset Park, Brooklyn, and has worked wonders with individuals facing drug, alcohol, and housing problems. Soon after the collapse of the World Trade Center, OBT opened a second site in Bedford-Stuyvesant ahead of schedule and set up a hotline for displaced World Trade Center workers, providing free employment assistance. Unlike some of the other job-training programs that are trying to retrain displaced workers, OBT is focusing on those who need to find another job quickly without retraining.

6. MARC ($20,000)

With its Robin Hood Relief Fund grant, MARC will provide emergency cash relief and job placement assistance to families of displaced workers.

C. Robin Hood Relief Fund Grants to Organizations Reaching Out to Victims Less Able to Access Charitable Relief

1. Asociacion Tepeyac ($600,000)

The Robin Hood Relief Fund has awarded a grant of $600,000 to the Asociacion Tepeyac to provide $420,000 of emergency cash relief to low-income immigrant families of World Trade Center victims, many of whom are inhibited by language obstacles from seeking assistance on their own. The remaining $180,000 will be used by this fledgling organization to strengthen its relief services.

2. Children's Health Fund ($450,000)

The Robin Hood Relief Fund has awarded a grant of $450,000 to the Children's Health Fund, so that its mobile medical center and staff can continue to provide primary and mental-health care to children and families throughout the New York City area.

3. New York City Mission Society ($95,000)

The Robin Hood Relief Fund has awarded a $95,000 grant to the New York City Mission Society to assist in providing emergency cash assistance to needy immigrant families unable to access funds or too frightened to request assistance at official distribution centers. Its bilingual counselors will, among other things, help affected families access disaster relief and other benefits, manage the emergency cash-assistance fund and coach parents on how to communicate with their children about the tragedy.

4. The Family Center ($30,000)

The Robin Hood Relief Fund has awarded a $30,000 grant to the Family Center to provide emergency cash relief to families of World Trade Center victims through the end of the year and to begin providing mental-health services to those families.

The Family Center, located a few blocks from Ground Zero, is one of the Nation's first organizations devoted solely to helping children, families, and new caregivers adjust to the illness and the loss of a parent or sibling due to AIDS or cancer. Although forced to evacuate its offices on September 11th, the Family Center immediately sped into action to meet the needs of its community. The Family Center is providing unbudgeted emergency cash relief to those who lost income and were at risk of being evicted from their homes or going without needed food or medication after the disaster.

5. New Alternatives for Children ($25,000)

The Robin Hood Relief Fund has awarded a grant of $25,000 to New Alternatives for Children to provide cash relief to families who have lost their income and are at risk of homelessness and hunger as a result of the disaster. New Alternatives is an organization that serves medically fragile children involved in the foster care system.

6. Queens Child Guidance Center ($25,000)

The Robin Hood Relief Fund has awarded a $25,000 emergency grant to the Queens Child Guidance Center to provide emergency mental health services in the aftermath of the attack.

IV. CONCLUSION

The offices of the Robin Hood Foundation are located a block and a half away from the World Trade Center. Like our neighbors and the victims whom we seek to assist, our world has been turned upside-down by the events of September 11th. Despite being driven from our offices, within two weeks of the tragedy Robin Hood had contacted representatives from each of the 100 charitable organizations we fund to assure them of our continued commitment to their life-saving work. In addition, we marshaled all of our energies to create the Robin Hood Relief Fund and to help put on The Concert for New York. Just recently Robin Hood has been on the move again, relocating to new temporary space from our prior temporary space in a building contaminated by anthrax.

Throughout all this, we have worked hard to administer the Robin Hood Relief Fund, while retaining our commitment to Robin Hood's core programs at this time of growing need. It is our mission, our commitment and our honor to ensure that the Robin Hood Relief Fund is efficiently and effectively dispersed to organizations serving the poorest and most vulnerable victims of these horrific attacks.

Statement of the Theatre Communications Group, New York, New York; American Symphony Orchestra League; Association of Performing Arts Presenters; Dance/USA; International Society for Performing Arts, Rye, New York; League of Historic American Theatres, Baltimore, Maryland; and OPERA America

National Study of Performing Arts Groups Finds Declining Revenues, Uncertain Funding Climate

Arts Managers Report That Impact Of Terrorist Attacks, Recession Threaten Financial Health

Summary Report by AMS Planning & Research Corp., November 7, 2001

U.S. non-profit performing arts groups face an uncertain future, according to a study of more than 850 arts organizations conducted by AMS Planning & Research Corp during early October. Arts managers report immediate deterioration in ticket sales compared to last year, sharply lower revenues from corporate sponsorships, and the expectation of mid-term declines in philanthropic and government support. "We have not heard from our funders yet, but we are preparing for the worst," said one dance company executive.

Results clearly indicate the expectation of an industry-wide contraction in unearned revenues over the next several years, led by decreased corporate support. On average, contributions and sponsorships from corporations account for a total of 5% to 12% of all revenues for different types of non-profit arts organizations, according to arts industry statistics.[1]

The re-allocation of philanthropic support and government funding to disaster relief may also be expected to negatively impact many non-profit arts groups, at least temporarily.

With contributed income shrinking, arts groups are likely to feel increased pressure on ticket sales and other forms of earned revenues. Almost half of the executives surveyed, however, expect that ticket sales will also decline over the next 12 months. Shifts in the types and numbers of programs offered may be expected, as well as further financial stress.

While it is too soon to definitively measure the financial impact of recent events, most arts managers expressed concern over the likelihood of decreased revenues. Nearly 60% of respondents indicated that they are adjusting annual budgets downwards from 5% to 25% and are revisiting programming plans. For example, one large symphony orchestra reported they are considering budget reductions of $1.5 million. Retrenchment strategies include staff cuts, reductions in programming levels, less risky programming and a renewed emphasis on increasing earned revenues.

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[1] Figures provided by Theatre Communications Group, Association of Performing Arts Presenters.

"The potential for reduced contributions has caused us to look at less expensive repertoire," said the manager of a regional opera company.

In spite of these hardships, arts organizations are contributing to the recovery effort and contributing to the healing of the national psyche. Over a third (38%) indicated that they have collected donations at a performance or dedicated a performance or a portion of revenues from a performance to relief efforts.

Losses from Cancelled Performances, Lower Attendance

Over one-third (35%) of the performances scheduled between September 10th and 23rd were cancelled (422 out of 1,201 performances offered by 278 organizations), resulting in refunded ticket sales, lost revenues and unrecovered expenses. As expected, cancelled performances were greatest in New York City, where 71% of performances scheduled for the week of September 10–16 were cancelled, and 54% of performances scheduled for September 17–23 were cancelled. The immediate financial loss to the City's arts groups has yet to be measured, although New York City-based respondents to the survey (64 groups) reported losses of nearly $500,000.

Nationally, about 15% of arts organizations reported that annual galas or special events had been cancelled or postponed, representing actual and potential losses of over $5 million.

Overall, 21% of arts groups reported a "substantial decline" (i.e., a 20%–50% drop-off) in attendance at performances held after Sept. 11 while another one-third (34%) reported "some decline" in attendance (i.e., down 1%–20%) during the month after the terrorist attacks (see figure below). In New York City, a greater percentage of respondents indicated a "substantial decline" in attendance (35%).

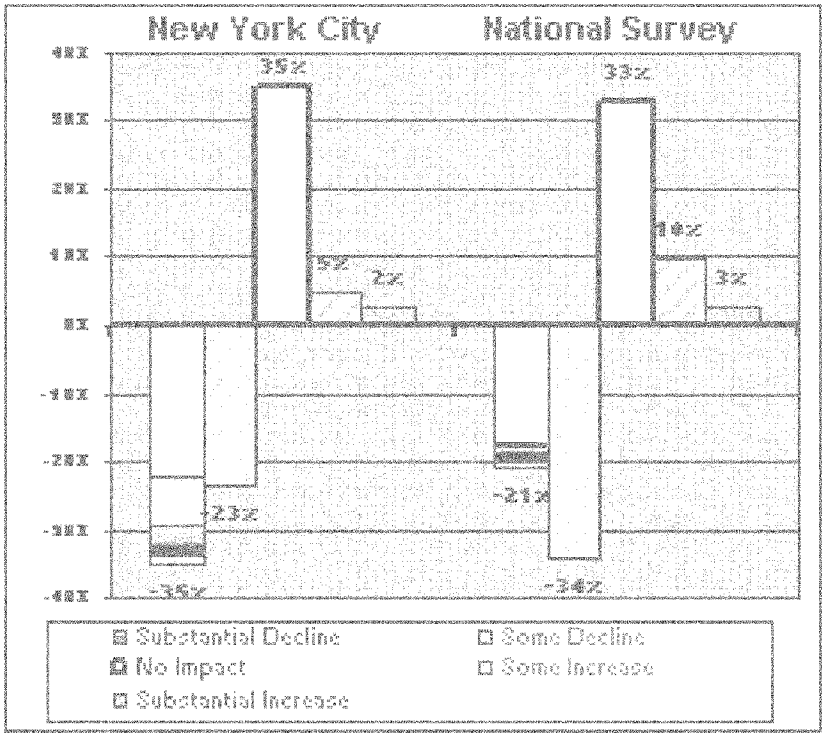

Figure 1: Impact on attendance post September 11

Ticket Sales Are Off, Reversing a Prior Trend

Subsequent ticket sales were negatively affected as well, with a majority of arts managers reporting either "some decline" (35%) or a "substantial" decline (23%) in

ticket sales as of the date that they completed the survey (between October 2–16). New York respondents reported slightly worse figures for ticket sales.[2]

The majority of survey respondents reported that prior to September 11th, both subscription sales and single ticket sales were unchanged or better than the prior season. Since that time, expectations have deteriorated significantly. Over half of all respondents (55%) reported a decline in advance ticket sales compared to last year. In New York City, 27% indicated that they experienced a "substantial decline" in advance ticket sales, while 35% experienced "some decline."

Contrary to the trend, some organizations reported increased attendance and ticket sales since September 11th. These organizations were significantly more likely to be orchestras (20% reported a "substantial increase" in attendance compared to 9% for all others).

Arts Managers Split Over Future Ticket Sales Trend

Looking forward, 30% of respondents expect ticket sales to increase to some degree over the next twelve months, while over 40% expect "some decline" (i.e., a 1%–20% drop-off) and 5% expect a "substantial decline" (i.e., a 20%–50% drop-off). In New York City, 58% of respondents expect lower ticket sales over the next 12 months, including 23% who anticipate a "substantial decline."

High Level of Uncertainty Delays Campaigns, Gifts

While arts groups may recover from the short-term decline in ticket sales and the abrupt reductions in corporate support, the high level of uncertainty about future funding levels appears to be a major concern among managers of all types of arts organizations. In fact, some respondents report that foundation representatives and individual donors have already notified some arts managers that grant awards and gift amounts will be reduced this year and/or next year. Reasons for decreased funding include both the reallocation of funding to disaster relief and the declining value of foundation assets—a trend that started well before September 11th. Managers also reported that individual donors have put off decisions about major gifts, that endowment and capital campaigns have been postponed, and that many board members are reluctant to make solicitations that may be perceived to be inappropriate.

Several arts agency managers, whose organizations depend heavily on government funding, say that cities, counties and states are re-directing funds from "quality of life" programs to "public safety and preparedness" programs. In New York City, arts funding may be reduced by up to 15% and State Arts Council was already reduced by 10%.

According to respondents, several factors contribute to the uncertain funding climate, including the unknowns of the new war on terrorism, the potential for additional terrorist attacks, and the continuing deterioration of the economy. Even corporations that are faring well are "cleaning house" (i.e., paring expenses, laying off staff), according to several arts executives.

Recasting the Future

As arts executives look ahead, it is clear that the economic situation and the tragic events of September 11th are weighing heavily on their decision-making. While 42% of respondents reported that they were engaged in contingency planning prior to September 11 (in light of the economic slowdown), 60% are now revisiting their programming forecasts and budgets. Dance/USA members and Theatre Communications Group members were significantly more likely than other respondents to report that they are revisiting programming and budget forecasts. In New York City, fully 75% of organizations are reconsidering their plans.

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[2] Although commercial Broadway producers were not surveyed as part of this study, acute short-term financial losses were widely reported in the weeks following September 11th. Several Broadway productions closed, and other producers quickly re-negotiated union contracts in an effort to reduce expenses. A concerted effort by the New York theater industry to get people back into the theaters (including a widely publicized appeal by New York Mayor Giuliani) had a positive impact on ticket sales over the weeks following the terrorist attacks. According to research commissioned by the League of American Theatres and Producers, approximately 38% of Broadway audiences are tourists, however, and tourism remains at comparatively low levels (as of November 2001). Industry sources suggest that the cumulative effect of refunds, depressed attendance levels and lower advance sales has introduced a new volatility to traditional Broadway economics.

% of respondents who were doing contingency planning...	Prior to September 11	Subsequent to September 11
National	42%	60%
NYC	28%	75%

Figure 2: Contingency planning

Both Dance/USA and OPERA America members were significantly more likely than other respondents to report that they expect a continuing negative financial impact next year.

Based on responses to open-ended questions, many performing arts organizations may be expected to cut expenses, reduce the number of programs offered, and plan more events that are intended to produce more earned income.

It may be another six to twelve months before more accurate financial and attendance data can be gathered. But it is clear now that the financial (and artistic) impacts of the deteriorating economy, exacerbated by the September 11th terrorist attacks and the ongoing war on terrorism, will be substantial. Many arts managers, especially those representing organizations that are already in a precarious financial situation, anticipate a range of further cost-cutting measures and programming adjustments.

A follow-up study is planned for early 2002, to gather more explicit data regarding the direct effect of the economic contraction and September 11 attacks.

About The Study

Responding to questions from policy makers, funders and arts managers, AMS Planning & Research Corp., in partnership with seven arts service organizations, designed this study in order to better understand the degree of concern and uncertainty that faces the performing arts field in light of recent events. The study was a collaborative effort between AMS and the American Symphony Orchestra League, the Association of Performing Arts Presenters, Dance/USA, the League of Historic American Theatres, the International Society for Performing Arts, OPERA America, and Theatre Communications Group. The Web-based survey was conducted between October 2nd and 16th 2001. Additionally, AMS surveyed the CEOs of North America's 28 largest performing arts centers. The surveys were designed to gather quantitative data as well as anecdotal insights into the effect of the weakening business environment, the terrorist attacks, and the resulting impacts on arts organizations.

A total of 855 arts managers from across the U.S. responded to the survey. The large majority of respondents are managers of non-profit producing and presenting organizations, representing a broad cross section of the nation's cultural programs. A small number of respondents were artist managers and industry service providers. 49 states are represented including institutions such as the New York and Los Angeles Philharmonics, Ballet Hispanico, Garth Fagan Dance, Inc., UCLA Performing Arts and the Oregon Shakespeare Festival. Also responding were organizations including the Alley Theatre, Hartford Stage Company and the Ravinia Festival as well as groups such as the Bilingual Foundation of the Arts, Boston Gay Men's Chorus, Minnesota Opera and the Tennessee Performing Arts Center, Lincoln Center and the Maine Center for the Arts.

Respondents to the survey were recruited via e-mail by the various arts service organizations. Some amount of bias from respondent self-selection may be present in the data, as well as sampling error and other forms of bias associated with Web surveys. Thus, results should not be generalized to the sum of all arts groups rep-

resented by the service organizations or to all non-profit performing arts organizations nationally.