

HHS Secretary's Fund Gave Little to Charity

By Jonathan Weisman
Staff Writer
July 21, 2006
Washington Post

Health and Human Services Secretary Mike Leavitt and his relatives have claimed millions of dollars in tax deductions through a type of charitable foundation they created that until recently paid out very little in actual charity, tax records show.

Instead, much of the foundation's money has been invested or lent to the family's business interests and real estate holdings, or contributed to the Leavitt family genealogical society.

The Leavitts used nearly \$9 million of their assets to set up the foundation in 2000 under an obscure provision of the federal tax code. But unlike standard private foundations, which are required to give away at least 5 percent of their assets to charitable causes, the Leavitt organization donated less than 1 percent of its assets in 2002, 2003 and 2004. The donations jumped to 6.3 percent of total assets last year, after the sale of family water interests that also allowed the foundation to increase its lending to Leavitt business interests.

While Mike Leavitt alone has claimed about \$1.2 million in tax write-offs since 2000, the foundation gave away only \$49,000 in 2002 and \$52,000 the next year, according to tax returns and other documents filed by the foundation. Meanwhile, the foundation's assets have been used for a \$332,000 loan to Leavitt Land and Investment Inc., in which the secretary owns a significant stake, and other secured loans for insurance and real estate deals, said Alan A. Jones, a trustee of the organization.

Leavitt Land and Investment, in turn, extended an interest-free loan to Leavitt in 2002 valued at more than \$250,001, according to a recent financial disclosure.

"The foundation's activities are totally legal and proper," Christina Pearson, an HHS spokeswoman, said this week on the secretary's behalf.

But Rick Cohen, executive director of the National Committee for Responsive Philanthropy, said that "the Leavitts are using the foundation as a personal piggy bank, and that's not what the public -- or Congress -- ought to tolerate." Cohen reviewed the family foundation's records and tax returns at the request of The Washington Post.

The tax structure used to create the foundation is called a Type III supporting organization. The Internal Revenue Service has said the category is rife with abuse, designating "supporting organizations" this year as one of its "Dirty Dozen" top tax scams, along with Internet identity theft and offshore banks. Use of the tax structure could be significantly reined in under a tax provision that was inserted into pension legislation passed by the Senate and now under negotiation with the House.

Leavitt and his brother Dane have defended the family's actions as both legal and ethical.

Dane Leavitt said his family would change the operations of the foundation if Congress enacted the legislative changes, which were proposed by Senate Finance Committee Chairman [Charles E. Grassley](#) (R-Iowa).

"That's a public policy decision," Dane Leavitt said. "If Congress makes that decision, we will abide by it."

From its early roots in the settlement of Utah, the Leavitt family has built up a considerable fortune in land and business. The family created the Leavitt Group and built it into one of the largest insurance brokerages in the country. Before he was elected Utah's governor in 1992, Mike Leavitt was the group's president and chief executive, amassing holdings valued at \$5 million to \$25 million. He sold off those assets when he joined President Bush's Cabinet.

In August 2000, Leavitt's parents, Dixie L. and Anne O. Leavitt, established the supporting

organization under their names. The family then donated nearly \$8.1 million worth of water rights that it was using to irrigate its land in southern Nevada. It donated another \$540,000 in stock from the Leavitt Group.

Under the regulations governing Type III supporting organizations, the Leavitts could then claim huge charitable deductions from their taxes using the fair market value of those assets. As owner of roughly 15 percent of the water rights, Mike Leavitt was entitled to around \$1.2 million in tax write-offs, Jones said.

Unlike standard private foundations, the Dixie & Anne Leavitt Foundation was not required to invest its funds in a diverse array of assets. It kept the assets in the Bunkerville (Nev.) Irrigation Company, in which the family retained significant control, and the Leavitt Group, whose board includes Dane, David, Dixie, Eric, Mark, Matthew and Rod Leavitt.

According to tax documents, the Leavitt Foundation donated \$49,087 of its \$9 million trust -- or 0.5 percent -- in 2002 and \$52,312 -- or 0.6 percent -- in 2003, the only years of tax data available.

"They're basically sitting on all this money, getting a charitable write-off and doing nothing with it," Cohen said.

The small percentage used for donations went largely to causes closely tied to the Leavitts. The bulk of the money has gone to the Southern Utah Foundation, under rules set out by the Leavitts under what is known as a donor-advised fund. Thousands of dollars more in donations have gone to Southern Utah University, Mike Leavitt's alma mater, and the Western Association of Leavitt Families, which promotes genealogical research and religious activities for the descendants of the first Leavitts, who helped establish Utah as a Mormon state.

"Secretary Leavitt's parents are generous people who are supportive of the people and causes in southern Utah. Organizations like Southern Utah University, which Secretary Leavitt attended, and the Southern Utah Foundation have provided services to thousands of people," Pearson, the HHS spokeswoman, said.

Dane Leavitt said the foundation's bylaws set strict limits on the contributions it can make to Leavitt family organizations.

The foundation maintains its holdings in the Leavitt Group, but last year it sold off the family's water rights to the Las Vegas Valley Water District for \$11.9 million, Jones said -- substantially more than the \$8.1 million originally claimed as a charitable deduction.

If the family had to pay out 5 percent of those assets a year, the foundation would have had to liquidate some of those water rights for less money. Now, it will have more money to give in the future, Dane Leavitt said. The proceeds from the sale should earn \$800,000 in income, 85 percent of which will go to charities to "do some significant good," he said. Indeed, giving has increased substantially this year.

"It was a good thing to not liquidate that water stock until the time was right," he said, "and the time was right last year."

"Those limitations are in place," he said, "and I'm confident they are abiding by them."

But selling the water rights opened the foundation to a new criticism. Jones said some of the proceeds have been farmed out to secured loans to Leavitt-related interests, such as real estate investments and insurance businesses. Even before the asset sale, the Leavitt Foundation's 2002 tax return noted an outstanding loan of \$332,000, which Jones said went to Leavitt Land and Investment Inc., secured by the water rights.

Mike Leavitt's stake in Leavitt Land and Investment -- which owns commercial and residential buildings, land and livestock -- was valued at \$1 million to \$5 million in his 2005 financial disclosure form. In the same year that the foundation made its loan to the company, the company gave Leavitt an interest-free loan valued at \$250,001 to \$500,000, the disclosure form states.

Dane Leavitt, the chief executive of the Leavitt Group, insisted it was not a loan but a promissory note from each of the six Leavitt brothers pledging to give the company funds and

was "completely unrelated" to the loan the foundation gave the company that year.

Such loans -- from a family foundation ostensibly set up for charity to the family's business interests -- are precisely what IRS Commissioner Mark W. Everson labeled as an abuse last year when he excoriated Type III supporting organizations as personal piggy banks for the rich.

"Some promoters in this area have encouraged individuals to establish and operate supporting organizations . . . that they can control for their own benefit," Everson said. "There are a variety of methods of abuse, but a common theme is a 'charitable' donation of an amount to the supporting organization, and a return of the donated amount to the donor, often in the form of a purported loan that may never be repaid."

Jones said the Leavitt foundation's loans were nothing of the sort. The LL&I loan was repaid in full on Oct. 5, 2004, he said, and the more recent loans were approved by an independent trustee, who set the interest rates and repayment terms.

"This was not an abuse of the process," he said.

© 2006 *The Washington Post*