

Charity Faileth

The Leavitt's charitable foundation says more about the Leavitts than our tax laws.

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08/10/2006

Salt Lake City Weekly

When F. Scott Fitzgerald said in his famous statement that the rich "are different from you and me," Ernest Hemingway replied drolly that, "Yes, they have more money." Today Hemingway might say, "Not only do they have more money. They've also got some rippin' good tax breaks."

Forget for a moment talk about how America's superrich got that way. The fact is that our nation's tax code speaks exclusively to the superrich when, through obscure tweaking, it creates massive tax shelters for the superrich. And only the superrich can afford the pricy attorneys and tax consultants who call these shelters to their attention.

Well, count the family of former governor and Health and Human Services Secretary Mike Leavitt among that number. Thanks to *The Washington Post's* Jonathan Weisman, we learned last month that since 2000, Leavitt has used his family's "charitable foundation" to claim \$1.2 million in tax write-offs-when the foundation itself gave away less than 1 percent of its assets to "charity" in 2002-2004. Only last year, and this year so far, has the Dixie and Anne Leavitt Foundation that Leavitt used for tax write-offs pumped 6.3 percent and 7.6 percent of its assets into "charitable" causes, according to Weisman's reporting.

You've noticed the ironic use of quotation marks around the words involving claims of charity. That's because, also according to Weisman's reporting in *The Washington Post*, the scant amounts of money moving out of the foundation's \$9 million in assets has gone toward Leavitt family business ventures, real estate holdings, and a Leavitt family genealogical society. All are no doubt vital enterprises and undertakings-if you happen to be a member of the Leavitt family.

Exactly why our tax code should make provisions for this sort of dubious "charitable" giving, however, is a question no one in the Leavitt family has yet given adequate answer to. Unless you insist on including Dane Leavitt's response in a recent *Deseret Morning News* article: "This arrangement helps many, hurts no one and is consistent with the law," he said. Well, it certainly helps the many people in the Leavitt family. Dane couldn't pass up the opportunity to remind us that the actions of such foundations, called Type III Supporting Organizations, are perfectly legal.

"But wait," as television ads of old used to say, "there's more." It turns out, according to a National Public Radio report by Howard Berkes, the foundation *did* make charitable donations to housing scholarships for Southern Utah University students. As it turned out, those students made their digs in apartments owned by Cedar Development Co., which is owned by ...
drum roll, please
... the Leavitt family.

Is recycled "charity" of that sort good enough to warrant removing those darned quotation marks? The secretary-treasurer of the organization receiving the Leavitt family contributions, the Southern Utah Foundation, was bothered by it enough to resign. However, when NPR asked an attorney to render his analysis of the foundation's scholarship loans, he declared it basically sixes. The Leavitts didn't profit from the deal, the attorney said. And it was perfectly legal.

There's that pesky phrase again. It's so common in tax-code parlance, in fact, that when chronicling the many loopholes and ways in which the rich evade taxes, Pulitzer-Prize-winning reporter David Cay Johnston decided to use it for the title of his book. "*Perfectly Legal* will get you mad as hell. Even if you suspected all along that the system favors the rich, you're going to be shocked to learn just how badly you're being screwed," writes Greg Palast, author of *The Best Democracy Money Can Buy*, on the back cover of Johnston's book.

Conservatives like to deride that kind of talk as the same old line of class warfare the left likes to trot out every now and then. "Get it through your thick, lefty heads once and for all," they remind us, "the rich will always pay more in taxes because they have more money." Sure. Sure. The rich, in some cases, do pay more. But what Johnston and other critics of our national tax code point out is that, increasingly, the poor and middle class pay a greater *percentage* of their income in taxes than do the rich. And when we're talking about the very funds that pay for our roads, schools, and government programs and, yes, even our wars, the lower and middle classes pay increasingly larger shares.

Legal? You bet. Ethical? Would that we could all set up a foundation large enough to write off \$1.2 million in taxes, all while extending loans tax-free to various family interests and pursuits. Such a deal. Or, as Rick Cohen, executive director of the National Committee for Responsive Philanthropy, said of the Dixie and Anne Leavitt Foundation to *The Washington Post*, "the Leavitts are using the foundation as a personal piggy bank, and that's not what the public-or Congress-ought to tolerate."

Those who've followed this story no doubt already know the IRS has termed such Type III organizations part of the "Dirty Dozen" top tax loopholes and legal scams. It looks as if reform ending these sorts of "charitable trusts" is on the way, too, thanks to a bipartisan bill approved last week by the U.S. Senate. Even President George W. Bush, a close friend to the rich and ultrarich, looks likely to sign it.

The Leavitt family, and other Type III trust holders, may be disappointed in the aftermath. But Paul had no tax shelter in mind when he more or less defined charity to the Western world in his letter to the Corinthians. "Charity suffereth long, and is kind," he wrote, "is not puffed up, doth not behave itself unseemly."

Consult our current tax law, though, and you'll find charity can be worth \$1.2 million in tax write-offs.

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