

Charity's founder paid himself \$1.7M

By Harvy Lipman
Staff Writer
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Multimillionaire Daniel Borislow paid himself at least \$1.7 million from the Tenaflly-based charitable foundation he set up -- and every taxpayer in the U.S. has footed a little piece of the bill, experts say.

Cases like that of the D&K Charitable Foundation demonstrate the growing potential for abuse in the non-profit world, tax lawyers and charity watchdogs say. The number of private foundations has more than doubled over the past decade, while the resources given to government regulators have not kept pace.

"Nobody's really watching what's going on," said Aaron Dorfman, executive director of the National Committee for Responsive Philanthropy in Washington.

And neither federal nor state law sets any specific limits on what non-profit officials can make.

Borislow declined to comment, referring all questions to George Farley, the chief financial officer of D&K who himself was paid at least \$1.2 million from 1998 to 2005, the foundation's tax returns show. Farley said the compensation was justified by the work both put into the organization.

"We worked pretty hard," said Farley, a former Tenaflly resident who used his family's address when the foundation was created in 1997. Farley also had worked as CFO of Borislow's telecommunications company.

In the 10 years since D&K started up, nearly half of its spending went to the two men. From 2001 through 2005, D&K paid \$2.1 million to Borislow and Farley while it gave \$1.6 million to charity, tax records show.

Borislow's take in 2005 alone came to \$778,000.

Borislow made hundreds of millions from the sale of his company in 1999. He owns a number of racehorses, including one that finished last in the 2001 Kentucky Derby. In 2005, his yacht -- called The Triple Crown -- boasted three bedrooms, nine flat-screen TVs and gold fixtures.

Bill Josephson,

former head of the Charities Bureau in the New York Attorney General's Office, called the salaries "grotesque."

'We're all subsidizing'

Borislow created D&K with a \$21 million stock donation, the tax returns show. Tax experts said his donation would translate into a tax deduction of between \$6 million and \$10.5 million, on top of relief from the capital gains taxes that would otherwise be due if he sold it.

For every dollar in deductions the government gives people who make charitable donations, taxes on the rest of us have to make up the difference.

"What makes it outrageous is that the reason the money he donated was given an exemption from income tax was on the assumption that it would be used for charitable purposes," said Josephson, who counsels congressional committees and the IRS. "A large fraction of it is not being used for charitable purposes, but rather to compensate the guy running the foundation -- who already has been well compensated by the tax deduction he got for creating it."

Marc Owens, who from 1990 to 2000 headed the IRS division that oversees non-profits, pointed out that every time someone gets a tax break for donating to a non-profit, every other U.S.

taxpayer has to make up for the revenue the government is losing out on.

"We're all subsidizing that activity," Owens said.

New Jersey has no laws controlling non-profit salaries at all.

"We don't have any regulatory authority to in any way define compensation limits," said Jeff Lamm, spokesman for the Division of Consumer Affairs.

In 2005, three dozen New Jersey foundations paid 20 cents or more to their board members for every dollar the groups gave to charity. That's nearly 10 percent of all the foundations in the state with operating budgets of at least \$250,000.

One of them is the Aaron & Rachel Meyer Memorial Foundation in Franklin Lakes.

Over the past five years, the trustees paid themselves \$604,000 while giving out \$1.1 million to charities, the foundation's tax returns show. Philip B. Lowy received \$70,000 while working an average of 12 hours a week, the group's 2006 tax return says. His wife, Janet, was paid \$22,000 for seven hours of work a week.

Alissa Murphy, a trustee who was paid \$32,000 for eight hours of work a week, said Lowy was the only person authorized to speak for the foundation. He did not return phone calls or an e-mail.

'Reasonable' pay

Federal law, meanwhile, says only that the compensation paid to foundation officials must be "reasonable and necessary." That means their pay should be based on the amount of time they

spend reviewing grant applications, investigating the charities that are requesting money and overseeing staff, Owens said.

All but two of the D&K Charitable Foundation's tax returns state that Borislow and Farley worked five to 25 hours a week; the others describe their hours as "part-time" or "none."

Farley said he and Borislow "spent a lot of time and effort" during D&K's first two years "trying to set up a conservation trust for buying a large piece of property and giving the development rights away so the property would be conserved for all time and the foundation would maintain it."

The site was a horse farm in New Hope, Pa., near Borislow's home at the time, Farley said.

That effort ended in 1998 when the property owner rejected the foundation's offer.

D&K then focused on "funding medical treatment for indigents at Morton Plant Hospital in Tampa," Farley said.

The foundation made grants to the Clearwater Endoscopy Center and the Center for Digestive Healthcare in Clearwater, Fla. -- both for-profit businesses. The sole officer of the latter, according to Florida corporate records, is Dr. David Borislow -- Daniel Borislow's brother.

It's not illegal for a foundation to make a grant to a for-profit business, as long as the money is used for charitable purposes, the foundation audits the business, its tax return says the grant went to such a business and it files a special form with the IRS. D&K's available tax returns do not mention a grant to a for-profit business.

Beth Hardy, spokeswoman for Morton Plant Mease Health Care, the company that owns the Tampa hospital, said neither of the centers is part of its health system, although Dr. Borislow is affiliated with the hospital.

Dr. Borislow did not return phone calls last week seeking comment.

Farley said the indigent care program ended in 2000 or 2001, and the foundation has focused on simply making grants to established charities; that included \$2.75 million to two yeshivas and \$173,450 to a private school in West Palm Beach, Fla.

Despite that reduced activity, Farley said the compensation "fell in line with salaries paid at comparably sized foundations." He said D&K submitted its own study on salaries to the IRS, "and the IRS approved our compensation levels."

But Steve Pyrek, an IRS spokesman, said the agency never gives a non-profit that sort of approval, unless it has been the target of an audit. IRS rules prohibit it from providing such rulings to a non-profit, he said.

As for Farley's contention that D&K's salaries are in line with foundations of similar size, a Record analysis of non-profits' tax returns found that only 12 of the 112 private foundations in New Jersey with assets of \$10 million to \$35 million paid any officer, trustee or employee as much as \$100,000.

Farley said Borislow's \$778,000 payment in 2005 was designed to make up for prior years. D&K's tax return for that year lists his average weekly hours as "none."

"He got no compensation for three or four years that he was entitled to," Farley said. The tax returns show Borislow was not paid in 2001 and 2002. "At the end of 2005 we thought it was time to wind up the foundation. We just brought everything up to date," Farley said.

The foundation has not closed up shop, however. It still holds about \$2 million in assets, which Farley said will be transferred to an as-yet undetermined charity.

"I don't know what charity Dan has in mind," Farley said, "but I think he's just going to transfer the whole thing to one charity, which is fine by me. I end up losing my job, but that's OK."

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Spotlight

Name: Daniel Borislow

Born: Sept. 21, 1961

Home: Palm Beach, Fla.

1989: Founds Tel-Save (later Talk America), selling long-distance phone service.

1995: Agrees to pay \$30,000 fine to Federal Election Commission to settle civil lawsuit accusing him, his company and 10 employees of making illegal campaign contributions.

1997: Tel-Save makes deal with AOL giving it exclusive rights to sell long-distance phone service to AOL customers.

1999: Replaced as CEO of Talk America; eventually sells most of his stock for millions.

2005: Founds YMax Communications, applies for licenses to provide local phone services in states across the U.S.

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