FOUNDATION CHIEF AGREES TO REPAY OVER $4M

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In a rare public embarrassment for one of New England's oldest families, Paul C. Cabot Jr. of Needham has agreed to pay back more than $4 million to a family charitable foundation that he drained over several years to support a lifestyle that included a palatial family compound in Boca Grande, Fla., and a lavish wedding for one of his daughters.

The agreement with the office of Attorney General Thomas F. Reilly, which was announced yesterday, included a release of documents showing that Cabot used the foundation's millions, which are supposed to be donated to charity, to make mortgage payments on the Florida property and his home in Needham, to pay bills from yacht and golf clubs, and even to purchase guns. Cabot has agreed to make part of the restitution by selling both the Florida and Needham homes.

The sanctions are the most severe ever levied against a charitable foundation in Massachusetts. The attorney general plans to follow them with proposed legislation tightening regulation of public charities and toughening penalties for those who abuse the rules.

Jamie W. Katz, the chief of the attorney general's Public Charities Division, said in an interview that it was "unconscionable" that Cabot took so much money $7.5 million over nine years from a trust that his father left under his stewardship to benefit worthy charities.

Katz's office launched its investigation last year after the Globe Spotlight Team, as part of a series on abuses at charitable foundations, reported that Cabot paid himself salaries that exceeded $1 million a year from 2000 on. He took a raise to $1.4 million in 2001, he told the Globe in an October 2003 interview, because he needed an additional $200,000 to pay for his daughter's wedding.

In September 2003, a month before the Spotlight report, the charitable trust's assets had fallen to $3.8 million, from a high of $14 million in the mid-1990s.

Bruce Hopkins, a Kansas City attorney who is a specialist in foundation law, said the multimillion-dollar settlement is unusual. "That's a large number where you're having the individuals sell property, particularly a personal residence," Hopkins said. "It strikes me that the attorney general struck a pretty hard bargain. It's quite an achievement on the part of the Commonwealth."

Hopkins also said that, in addition to the settlement with Reilly's office, Cabot could face sanctions by the IRS, which has the authority to tax excessive compensation and self-dealing. "I hope he doesn't think that just because he's ponied up to the attorney general he's through, because that may not be the case," Hopkins said.

Reilly's office has also moved against another foundation examined in the Globe series. In October, the attorney general filed a formal demand in Suffolk Superior Court requiring that officers of the Copeland Family Foundation of Milton turn over extensive financial records. The Globe reported in January that the trustees had boosted their pay dramatically and awarded themselves generous pension plans starting in 2002, even as the foundation's assets plummeted by 32 percent.

But Katz said his office had found no violations of the law by two other foundations that, the Globe reported, paid their trustees extraordinarily high compensation. They are the Amelia Peabody Foundation of Wellesley and the V. Kann Rasmussen Foundation of Boston.

Margaret N. St. Clair and Bayard D. Waring, co-managing trustees of the Amelia Peabody Foundation, issued a statement last night saying, "We are pleased that the Attorney General's division of public charities has concluded that there are no issues to pursue concerning the operation of the Amelia Peabody Foundation."

Several other foundations, including the Mabel Louise Riley Foundation, have adopted conflict-of-interest guidelines in recent months, according to Katz. The Globe reported that the Riley Foundation in 2002 gave a $250,000 grant to the Massachusetts Golf Association. Robert W. Holmes Jr., a foundation trustee, was the legal counsel to the golf association at the time.

As a result of his office's review, Katz said, Reilly will file legislation next month designed to improve governance by the state's 22,000 public charities, which include nearly 5,000 charitable foundations. The legislation would require more diligence by trustees, give the attorney general greater authority to levy penalties, and require third-party research to ensure that compensation of officers and trustees is within reasonable boundaries.

The Globe investigation found that trustees at the vast majority of charitable foundations receive little or no compensation. But, using a nationwide database built from foundation tax returns, the Globe found hundreds of foundations where trustees took fees of tens of thousands and sometimes hundreds of thousands of dollars a year for little or no work.

Cabot was at the top of the list. In 2001, for example, he paid himself $1.4 million while authorizing just $464,000 in charitable grants by the foundation. He paid himself $1.3 million in the fiscal year ending January 31, 2003, and, Katz said, another $1.16 million from February through Sept. 2003.

To make restitution, Cabot has agreed to sell the two-house compound on the Gulf of Mexico and his home in Needham, and return his half of the proceeds to the Paul & Virginia Cabot Charitable Trust. The Florida compound is on the market for $3.2 million.

The residence on South Street in Needham 6,400 square feet with six bedrooms and four bathrooms is listed for sale at $2.5 million. The mortgages on the two properties, which Paul Cabot jointly owns with his wife, appear to be about $1.5 million. If they sold for the asking price $5.7 million for both that would mean that Paul Cabot's share might approach $2 million.

In addition, Cabot has agreed to take steps to turn over to the charitable trust another $2.47 million in two private family trusts of which he is the beneficiary.

The sanctions were agreed to by Cabot, his wife, Jennifer, and Cabot's two sisters who were trustees of the foundation.

Jennifer Cabot had no formal role in the charitable trust. Nonetheless, she reached a separate agreement with Reilly's office to return $555,000 to the foundation. In a series of interviews with the Spotlight Team, Paul Cabot said his wife's $10,000 monthly allowance was among the reasons he felt compelled to take such a large salary.

The probe by Katz's office suggested that Cabot treated the foundation account as his own, writing checks from it to pay for such things as his credit card bills, his income tax payments, artwork he purchased, and the mortgages on the two homes. In the foundation tax returns, however, he included those charges as part of his compensation.

All told, Katz said, the restitution is expected to be about $4.5 million. "Given the magnitude of the recovery, and the willingness of family members to enter into it, we felt that this was the most appropriate action to take," Katz said.

Cabot voluntarily relinquished his role in the charitable trust soon after the Globe report, according to Katz. Under the agreement, Cabot is barred for life from any role in any Massachusetts charity.

Cabot's two sisters, Elizabeth C. Minot of Dover and Virginia C. Wood of Groton, were his cotrustees. As part of the agreement, they will also step aside. A year ago, Cabot said in an interview that his sisters never saw the foundation's tax returns and had no inkling about his compensation.

Katz said he reached the same conclusion. The sisters, he said, "were quite appalled to learn how the assets were being used, and were very eager to have those assets restored." Under the law, trustees can be held accountable even if they are unaware of violations.

A statement released last night by Martin F. Murphy and William L. Patton, the lawyers, respectively, for Jennifer and Paul Cabot, read: "We cooperated fully with the Public Charities Division since it began its investigation last year. We are pleased that this matter has been resolved."

Paul Cabot, 74, could not be reached for comment. A woman who answered the phone at his Needham home last night said he had been hospitalized.

Separately, Reilly's office filed court documents ordering the Copeland Family Foundation, the South Shore's most prominent charitable foundation, to hand over four years' worth of financial records, as well as the personal tax returns for all five of its trustees. Reilly's office said that compensation for trustees of the $28 million foundation shot up by 383 percent in just one year.

The Globe had reported in January on an eightfold jump in compensation for the foundation's president, Martha Verdone. Verdone received her windfall shortly after she replaced her divided board of directors with a new board that included her 91-year-old mother and two longtime associates who had no foundation experience.

Katz said the investigation would also look at why Verdone and another trustee were drawing two full-time salaries, one from the foundation and the other from the holding company that handles assets left behind by the foundation's benefactor, the late Charles L. Copeland. "We have concerns whether two full-time jobs are being performed, and whether the compensation being collected is appropriate," Katz said.

Neither Verdone nor her attorney, J. David Moran, could be reached for comment.

The Globe series reported on abuses at private foundations throughout the country and, subsequently, the IRS and the Council on Foundations, a membership organization of charitable foundations, initiated several reforms.

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