

Professional Athletes and their Nonprofit Foundations

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Even though he should be enjoying the off-season, Michael McCrary recently spent a day at the Baltimore Ravens' downtown football stadium making tackles, running along the plush field and discussing the intricacies of a professional football game.

On this day, the two-time Pro Bowler was not surrounded by any of his burly teammates. Instead, McCrary huddled with a group of children touring the purple-clad stadium through his charitable foundation called Mac's Miracle Fund.

Private foundations like McCrary's are not uncommon among professional athletes and can be started with millions of dollars or just \$1, depending on who is behind the charity. While many athletes have good intentions when they start their foundations, others run into trouble because of **mismanagement or lack of oversight in following a complex set of guidelines regulating the industry.**

McCrary started his foundation in 1999 with an initial \$100,000 donation out of his own pocket for the Special Olympics, and has since generated more than \$100,000 in annual revenue. Susan McCrary, the ballplayer's mother who helps run the foundation, said only about 2 percent of the donations go toward administrative costs because volunteers perform most of the work.

"We decided that if Mike ever got that new contract athletes always dream about, then we would do this," said Sandra McCrary, who also is a volunteer. "We really wanted to commit to this."

McCrary spent most of the stadium tour shaking hands with the children, or answering questions. He even mimicked tackling one of the children on some of the replacement grass the Ravens' grounds crew keeps handy for games.

Many athletes like McCrary try to help needy causes with their foundations, but they cannot forget foundations are closely watched by regulators and, therefore, cannot be taken lightly.

Strategy required

Joel M. Breitstein, managing director for philanthropic planning and advisory services for Legg Mason Trust, said every private foundation has to be set up and qualified by the Internal Revenue Service. The foundations also have to file a special application to become what they call a 501(c)3.

Foundations are not public charities, but are considered tax- exempt organizations. Breitstein said private foundations are under a certain set of rules and regulations that have been enforced with the Tax Reform Act of 1969.

"[The athletes] must give away a minimum every year of 5 percent of basically the value of the foundation," Breitstein said. "If they don't give away that money or if they violate other rules or regulations they could lose their tax-exempt status as a private foundation.

"So that every year, every private foundation is required to file essentially a tax return, but it is a form with the Internal Revenue Service called a 990PF [Private Foundation]."

Former Baltimore Colts quarterback Johnny Uinitas' Golden Arm Foundation Inc. annually receives \$112,987 in donations, with expenses of \$87,516 and net assets totaling \$20,171, according to state records. Uinitas' foundation awards college scholarships and supports the NFL for additional scholarships and awards.

The Golden Arm Foundation donated \$28,000 in college scholarships last year with the goal of increasing that to \$32,000 this year. Since its inception in 1987, the Golden Arm Foundation has donated \$325,000, according to company documents.

Johnny Uinitas Jr., president of the foundation, said the tough economic environment has made it increasingly difficult to get donations during the past two years. However, Uinitas helps offset that by agreeing to appear at corporate events in exchange for donations.

"What we try to do each year is get a corporate sponsorship who can contribute as much as they can," Uinitas Jr. said. "We have tried to build our endowment that way."

Giving back

David N. Pessin, a lawyer with Towson-based Hodes, Ulman, Pessin and Katz, and an attorney for professional athletes, recently helped National Basketball Association stars and Maryland natives Sam Cassell and Walt Williams each launch foundations. Pessin found that most athletes initiate the process for developing a foundation as a way of giving back to a community.

However, Pessin said some foundations struggle because athletes do not have the right infrastructure in place or they hire an inexperienced staff.

"First of all, the foundation has to have a real charitable purpose. It can't be some Mickey Mouse operation," Pessin said. "It takes a lot of money and hard work to set up these foundations. These guys really put in the time and are dedicated. Otherwise, they could just donate the money to another charity without all of the hassles."

And to make sure the rules are followed, they are set forth by the IRS.

Before starting a foundation, athletes or organizations must apply for tax-exempt status, and submit documents outlining the infrastructure of the proposed foundation, including costs to operate and a projected balance sheet for the first year.

A special tax code called the private inurement rule also does not allow athletes to pay themselves for any work they do for their foundations. For example, athletes cannot earn a paycheck for making a public appearance on behalf of their foundation.

In addition, Breitstein said if a person owns a building and also runs a foundation, then that person couldn't rent that building to the foundation because it would be considered self-dealing. The founder of the foundation is not allowed to personally profit from the foundation.

"There are regulations to ensure private foundations are in fact charities, and people are not just setting these things up in order to enrich yourself or a family member, or you are not going to give away an appropriate amount of dollars," Breitstein said. "That is why a lot of these different rules and regulations came into play."

While the athletes cannot pay themselves, they can reap significant tax benefits that typically come with donations.

Athletes can deduct up to 30 percent of the adjusted gross income for cash donations made to private foundations. Players can deduct in full up to 20 percent of the adjusted gross income for any stocks, bonds or mutual funds that are donated.

Ronald V. Miller Jr., an Ellicott City attorney, who represents several NFL players, said a tax write-off is not always the motivation behind foundations. Miller said some of the former so-called super agents like Leigh Steinberg often encouraged their athletes to start a foundation for a better image.

Nowadays most athletes initiate the process without relying on advice from an agent or attorney, he said.

"Having the money is better than the tax write-off," Miller said. "Just because you are lowering your tax base does not mean money is not coming out of your wallet. Many athletes feel accountable to give back to their communities."

Greg Johnson, executive director of the Sports Philanthropy Project in Boston, said philanthropy among professional sports teams has gotten increasingly popular in the past decade as the value of the franchises and salaries for athletes have skyrocketed. While most professional sports franchises sponsor some type of foundation or charity, Johnson said the involvement varies from team to team.

"The opportunity for these teams to use their assets in philanthropic fashion is unprecedented," said Johnson, whose organization assists professional sports franchises

develop philanthropic initiatives. "Many of these teams are learning how to put their money to good use. This is an emerging field."

Some play, some don't.

Johnson said some teams are aggressive with charitable campaigns, while others claim to have a foundation even though it is virtually inactive.

The Ravens initiated various foundations that raise money for the needy. Ravens Foundation for Families Inc. had a total income of \$166,915 and \$79,759 in charitable programs, according to information filed with the state.

"The focus of our foundation is football and families," said Kenny Abrams, the Ravens' manager of corporate community development. "In Baltimore, there are just not a whole lot of activities for families. It is getting better, and we want to help bring that back."

Going into last season, the Ravens also had 12 players with foundations: Sam Adams, Rob Burnett, Jermaine Lewis, Chris McAlister, Michael McCrary, Elvis Grbac, Jonathan Ogden, Tony Siragusa, Duane Starks, Harry Swayne, James Trapp and Rod Woodson. Ravens spokesman Kevin Byrne said most of these players register their foundations with their home states.

Some athletes also have worked with the Baltimore Community Foundation, which is part of a network of 600 community foundations around the country. This enables athletes to give money to organizations nationwide. In addition they can transport the administrative work of their foundations to different cities if they join new teams.

Star linebacker Ray Lewis, who recently signed a seven-year contract said to be worth \$50 million that includes an NFL-record- setting signing bonus of \$19 million, became the latest local athlete to enter the complex world of sponsoring a private foundation.

Lewis recruited some of the National Football League's biggest stars to shed their helmets and pads for bowling shoes to help the Ray Lewis Foundation in May. The first annual Ray Lewis Celebrity Bowling Tournament raised about \$120,000 for at-risk youths in the Baltimore metropolitan area through an auction.

Lewis also had the foresight to surround himself with financial advisors and attorneys knowledgeable of the laws of running a charity.

While Lewis has donated turkeys at Thanksgiving and gifts during Christmas, the bowling tournament was the first event of his new foundation.

Wendy Herr, chairwoman for the event, said Lewis wanted to take his charitable giving a step further and decided to use a private foundation as a means to help certain causes overlooked by other charities.

"We want to work with groups that do not have any other sources of funds," Herr said. "We are going to shy away from charities that already have access to funds. We want to focus on areas that do not have any help."

Game rules

Richard A. Morris, deputy director of charities and legal services for the secretary of state, said an organization could solicit funds once it applies as a charity. In the application process, organizations must provide the state with financial statements and the purpose of the charity, among other disclosures each year.

Morris said the state cannot regulate how much a foundation spends on administrative costs or the amount given to a charity. The state, however, mandates that the public is informed in how a foundation is spending its money.

"If an organization raises \$1 million and spends \$900,000 of that on management and administrative fees, that cannot be regulated," said Morris, whose cramped office in Annapolis oversees more than 5,400 registered charities. "We do give that information to the public so if they are thinking about donating to a charity, they can check that type of information before they make a decision. If they do not have a problem with how a charity is spending, then that is their prerogative."

Miller, the Ellicott City attorney, said it is not uncommon for problems to arise because some athletes do not follow Lewis' lead in hiring people with the right expertise to manage their foundations. Miller said many athletes hire family or friends to do most of the work in the foundation, even though they have no prior experience.

"A lot of athletes don't think there is much to running a foundation," Miller said. "However, it is a very difficult process, and if you don't hire people with the right experience or expertise, then you are going to run into trouble. A lot of times, these foundations forget to dot the i's and cross the t's and that is why there are problems."

Michael Jordan hired his sister to serve as director of charity for his foundation, where she earned almost \$50,000. That entity eventually was dissolved in 1996 amid criticism surrounding administrative overhead.

Darrell Green, a cornerback for the Washington Redskins, did not file tax returns to the IRS for six years with his foundation because of a management oversight, but he later corrected the problems.

J.C. Sherrod, executive director of the Darrell Green Youth Life Foundation, said Green has brought aboard more experienced staff to ensure guidelines are being followed more closely and those problems with the IRS do not happen again.

Green runs after-school learning centers for students in Washington, North Carolina, Tennessee and Virginia and raised almost \$600,000 and received another \$640,000 in federal money last year for his program.

"When you are young and overzealous, you begin to learn the ropes," Sherrod said. "Mr. Green learned a number of ropes, and finally developed a successful infrastructure. He brought in people who are accomplished and experienced in developing business strategies. Running a nonprofit can be a little more challenging than a for-profit."

Breitstein said there is nothing wrong with an athlete hiring a family member to help with a foundation as long as the compensation is reasonable. For instance, Breitstein said if a foundation had \$100,000 as its corpus, and was paying an executive director \$50,000 per year to run it, the IRS would look at that return and say that is unreasonable compensation.

He said the IRS might even go further, especially if it was a relative that was running it. Breitstein said there are certain prohibitive acts with certain people who are called disqualified persons with regard to a private foundation, and that is why they say the rules regulating private foundations are much harsher than rules regulating public charities.

Breitstein said there are various penalties for not doing what the government tells you to do. The most severe might be taking away the tax-exempt status of a particular foundation.

Normally, private foundations do not pay any income tax because they are tax exempt. However, there is an excise tax that can float from 1 percent to 2 percent, depending on how much you give away each year.

"If you don't do what the IRS says and you do not file your annual report with the IRS and they catch up with you, they can take any number of different actions to the point of saying you are no longer a tax-exempt organization, and there are various penalties you have to pay," Breitstein said.

"You have to adhere to some pretty strict rules and regulations, and because of that you need to have advisors and accountants and other people file these various returns on your behalf. You could do it yourself, but you usually hire an accountant to do that just like many times you hire an accountant to do your tax return. There is some expense in running them."

The Baltimore Orioles Foundation Inc. has a total income of \$184,797, and paid out \$121,744, according to the most recent statistics supplied by the state. In addition to its foundation, the team also works with the Orioles Wives, a fund-raising group, and The Oriole Advocates Inc., a nonprofit business group.

"We have provided millions of dollars over the years to local charities," Orioles spokesman Bill Stetka said. "We have raised money mostly for youth-oriented initiatives. We also help other causes and various initiatives involving cancer and other medical conditions."

The Kelly and Cal Ripken Jr. Foundation, which focused on youth recreation and literacy, is no longer active as donations are now going toward the Cal Ripken Sr. Foundation. The funds for the couple's former foundation are now being used to help children learn the game of baseball, in addition to leadership skills, sportsmanship and how to lead a healthy lifestyle.

"The thrust is to teach life lessons to kids through baseball," said John Maroon, spokesman for Ripken Baseball. "Cal always said that his father taught him valuable lessons through the game of baseball, and he wants to promote that philosophy with kids."

The foundation also is developing a 3,500-seat stadium designed as a youth-sized version of Oriole Park at Camden Yards. The stadium is going to be named Cal Sr.'s Yard and is expected to open in August 2003.

So far, the foundation has raised more than \$3.5 million for the \$5 million stadium, but Maroon said there is very little concern about meeting the goal. Baltimore Orioles owner Peter Angelos donated \$1 million toward the stadium at the end of Ripken's last game, and several other Major League Baseball teams also made contributions to the project.