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### **Nonprofit funded lavish travel with insurance spin-off**

Albany --- Private jets. Elite hotel suites in tourist locales. Generous bar tabs. Cuban cigars.

These were among the perks enjoyed by board members and executives of Phoebe Putney Health System and their business associates, according to travel documents and receipts obtained by The Atlanta Journal-Constitution.

The perks came courtesy of a private malpractice insurance company that was set up in the Cayman Islands by Phoebe Putney, an Albany-based nonprofit organization, to save the hospital system money on malpractice insurance.

But the insurer also financed expensive trips to London and the Bahamas.

In its effort to establish the insurer, Phoebe Putney also cultivated a business relationship with a veteran state legislator, Sen. George Hooks (D-Americus). The hospital system paid him as an insurance consultant and took him along on a trip to London, where rooms and expenses at the Ritz alone cost more than \$30,000.

Phoebe Putney's chief financial officer said the company had done nothing wrong, and he defended the spending as appropriate.

What is lavish, said CFO Kerry Loudermilk, "is all in the view of the beholder."

Responding to questions about how the health system has operated its insurance subsidiary, he said: "We own it. We'll manage it the way we damn well want."

And Hooks said he saw no conflict of interest between his role as a legislator and his dealings with the hospital system.

"I have a clear conscience," Hooks said.

Phoebe Putney's financial practices have previously attracted scrutiny. It and other nonprofit hospitals nationwide faced lawsuits filed last year that accused them of overcharging patients without health insurance and then aggressively seeking payment.

Those actions violate the hospitals' charitable obligations as tax-exempt organizations, the lawsuits allege.

The hospital systems have denied the accusations, and many of the lawsuits that were filed in federal court --- including the one against Phoebe Putney --- have been dismissed. But similar cases remain in state courts, including one against Phoebe Putney.

The chairman of the U.S. Senate Finance Committee, Charles Grassley (R-Iowa), in May asked Phoebe Putney and nine other hospital systems in the United States for information on their charitable activities as part of a broader inquiry into the tax-exempt status of nonprofit hospitals. In addition, the Georgia agency that runs Medicaid is conducting an investigation into possible billing problems associated with Phoebe Putney.

#### Offshore operation

With the help of an insurance consulting firm, Phoebe Putney created its own insurance company in the Cayman Islands in 2001 in hopes of reducing its medical malpractice costs. The insurance company covers Phoebe Putney for most claims and buys additional coverage for others in any malpractice actions against Phoebe Putney Memorial Hospital and staff.

Loudermilk said the insurance company had saved Phoebe Putney about \$1 million a year.

The insurance firm, Grove Pointe Indemnity, is governed by a four-member board that includes Phoebe Putney system Chief Executive Officer Joel Wernick and Loudermilk. Foreign trips included those two executives, other members of the Grove Pointe board, Phoebe Putney's attorney, and others associated with the insurance operation.

The Cayman Islands, south of Cuba in the Caribbean, can be a desirable place to set up such an operation. The Cayman government, attorneys and financial officials provide expertise in medical malpractice insurance.

Although the establishment of a self-insurance subsidiary is common, it's also common for such a company to be "a real low-budget operation," said Martin Grace, a Georgia State University professor of risk management.

Dennis Harwick, president of the Captive Insurance Companies Association, a trade group, said these companies have "an incentive to do business efficiently" because "it's eventually coming out of the same pockets." The insurance companies are called "captives" because they provide coverage for their parent company or owner.

A consumer group, the Foundation for Taxpayer and Consumer Rights, said a nonprofit should operate efficiently and reinvest its money in the organization or the community --- actions that confer its special tax status.

"Nonprofits should not keep huge reserves or spend large amounts of money on foreign trips for executives," said Jerry Flanagan, director of health care policy for the California consumer group.

While the Internal Revenue Service would not speak specifically about the Phoebe Putney situation, an agency spokesman said that, in general, excessive spending that benefits individuals could be considered a factor in a review of a nonprofit tax-exempt organization.

Drinks and tobacco

The authenticity of the travel documents was confirmed by the Journal-Constitution by contacting John Neel, whose Macon-based firm the Sanford Company was under contract to help launch and run Phoebe Putney's insurance company. Neel, who was the only non-Phoebe official on the four-member insurance company board, said his firm would pay the insurance company's bills and then get reimbursed.

Neel held the contract from 2001 to 2004. He and Phoebe Putney disagree over why his contract was not renewed.

Loudermilk, Phoebe's financial chief, said the arrangement wasn't renewed because Neel's work didn't meet performance standards. Neel said the falling out came after the two sides disagreed over how the insurance company was being run.

Neel's company held the records on spending by the malpractice insurer until he received a request for them by a Phoebe Putney Memorial Hospital board member. The Journal-Constitution obtained them from a third party.

Neel said that a hospital's insurance company board in the Caymans typically holds one meeting a year, outside the United States. "Phoebe had at least two a year, " Neel said.

Phoebe executives took other trips as well, Neel says. "They met on their own. . . . We don't know why they met."

Except for the London trip, for which they flew first-class, the Phoebe Putney group flew on private jets --- a habit the executives acquired prior to Neel's hiring, he said. "My assumption was that it was acceptable to the hospital board, " Neel said.

When questioned about a receipt for cash on one trip, Neel responded that it was for Cuban cigars.

Loudermilk called Neel's statements on the travel "absurd."

"From a philosophical perspective, all the [insurance firm] meetings were working meetings, " he said. "We're required to have as many meetings as is necessary to effectively govern and manage the business."

Loudermilk also defended the use of private air travel, saying it can reduce hotel stays and conserve valuable time.

Phoebe Putney executives, including their wives, took a six-day trip to London in 2003. Neel said 17 people went on that trip. The spouses of executives paid their own travel to London, Loudermilk said.

Although Neel did not attend, one of his colleagues assigned to the Phoebe Putney work did. Hooks and a Phoebe attorney were among the others who attended, according to the travel documents.

Those documents show the Ritz rooms for each executive, with breakfast, cost 355 British pounds a night --- about \$570 under exchange rates at the time. The beverage charge for one dinner was \$538. And the tobacco charge for one meal was \$249.

The executives met with London underwriters twice, Neel said, but no money-saving deals were reached. Loudermilk said the London trip was worthwhile.

Although he is critical of Phoebe Putney's management practices, Neel endorses the use of Cayman-based insurance companies. They can reduce malpractice insurance costs and provide more flexibility than a standard insurance company can, he said, noting that he has helped establish about 20 Cayman companies for other nonprofit hospital systems, physicians and nursing homes.

"I don't want to give offshore companies a bad name, " he said. "There is a consistent belief that the captive board will police itself."

#### Hiring a senator

When he helped set up Phoebe Putney's insurance company in 2001, Neel said he was told by Loudermilk that Sen. Hooks would participate.

Hooks is an insurance agent and a current member and former chairman of the Senate Appropriations Committee, which he ran for a decade. The committee oversees the state budget, which sets payment rates for hospitals under Medicaid, the health care system for the poor.

Hooks was a longtime agent for Phoebe when it decided to create the insurance unit. Loudermilk said that as Phoebe Putney modified its insurance structure by setting up Grove Pointe, Hooks "was no longer going to be an agent" for Phoebe Putney.

So, Loudermilk said, "Grove Pointe asked George Hooks to continue in an insurance consultant role."

"With George's experience with Phoebe and the insurance world, he's a valuable consultant to us," Loudermilk said.

Documents show that the insurance company paid \$14,000 --- in monthly \$1,000 checks --- to Hooks for insurance consulting work from December 2002 to January 2004. Hooks is still an insurance consultant for Phoebe.

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