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Businesses aid Blues' whistle-blower

BY STEVEN WOLCOTT

A group of medical equipment dealers with a beef against Blue Cross and Blue Shield of Florida financed a \$25,000 fund used to defray the legal costs of a whistle-blower's Medicare fraud lawsuit against the insurer.

That information was included in exhibits filed earlier this month by Blue Cross in a lawsuit filed by former employee Theresa Burr. The 1991 lawsuit was taken over in 1992 by the federal government, making Burr a relator to the case and eligible for 15 to 25 percent of any settlement.

Dealers named in Blue Cross court filings are Bob Lichtenstein and Sam Shapiro. Lichtenstein is listed as head of the group and is owner of Hollywood Medical Supply in Hollywood, Fla. No other company names were listed.

Lichtenstein would not confirm Shapiro or other members of the group, saying they fear reprisals by Blue Cross in processing their Medicare claims. The group is known as the Committee to Stop Medicare Carrier Fraud.

"People who supported the committee, their concern was confidentiality," Lichtenstein said. He said the committee still exists but is not active.

Court documents filed by Blue Cross also allege Burr's attorneys urged her to accept a \$10 million settlement of the case pending between the government and Blue Cross. But when the government refused Burr's request to up her potential share of \$1.5 million to \$4.5 million, Burr opposed the settlement, the documents state.

The court documents also accuse Burr and her attorneys of "a calculated and concerted effort" to discredit Blue Cross in the news media by a "litigation strategy" of a mailing list of media to be notified about developments in the case.

The list was filed as an exhibit and included *The New York Times*, *The Miami Herald*, *The Jacksonville Business Journal*, *Consumer Reports* magazine, the "60 Minutes" television news program, "The 700 Club" religious television show, national conservative talk show host Rush Limbaugh and a millionaire ex-presidential candidate H. Ross Perot.

"Those are not true statements," said Theresa Burr in a telephone interview. "That is the way it was twisted. It was kind of a smear the way they're bringing it out, in pieces. I'm not out there to degrade the company or knock it down."

Blue Cross filed its documents in opposition to Burr having access to material from a grand jury investigation of Medicare fraud at Blue Cross. The grand jury did not return any indictments against Blue Cross.

Blue Cross alleges in court documents that the medical equipment dealers on Lichtenstein's committee have been critical of how Blue Cross has handled their Medicare claims and that's why they financed Burr.

Blue Cross has a government contract to process Medicare Part B claims in Florida. Part B covers claims for medical equipment, among others.

"Discovery has now revealed that while Relator has portrayed herself as an independent 'whistle-blower,' in reality a 'committee' of DME dealers has financed the litigation costs incurred by the Relator in this action," according to an April 8 motion filed by Blue Cross.

To support its point on the medical equipment dealers fund, Blue Cross filed as an exhibit a "confidential memorandum" between Burr's former attorneys and the Committee to Stop Medicare Carrier Fraud. The memo, from attorney Linda Shapiro Snyder of Washington, D.C.-based Epstein, Becker & Green, states that committee members will maintain a \$25,000 fund to pay the law firm's out-of-pocket expenses. The fund was to be replenished if it fell below \$5,000. Snyder estimated in the memo the out-of-pocket expenses for the firm at a minimum of \$50,000 and as much as \$200,000.

Burr switched attorneys last fall to Dennis Abrahms, a partner in a Philadelphia law firm. Burr said she switched for personal reasons.

Bill Kopit, an attorney with Epstein, Becker, confirmed existence of the fund, but said it never was replenished and the money did not pay all of the law firm's costs.

"It paid for some of the out-of-pocket expenses of the case, filing fees and such," Kopit said.

The committee members had problems with Blue Cross being slow in paying their

Medicare claims, Kopit said. "It was a beef that pretty much all the suppliers and providers in the state had at one point."

As for the alleged mailing list of the media, Burr said that the list was merely people or organizations that had contacted her or had been contacted by her about the case. "That's not to say every time something happened these people were notified."

"We did disclose things to people in the press," Kopit said. "We gave them factual information. We never told people things that weren't true."

Also included in the Blue Cross exhibits filed in the case was a November 1992 handwritten letter from Burr to President George Bush.

In the letter, Burr consoles the just-defeated Bush and asks for help and to be able to speak to him about her case against Blue Cross. Burr wrote Bush that God had appointed her to stand up for the homeless, elderly and unborn and that was why she's pursuing the case against Blue Cross.

Burr said her letter was never answered.

Burr denied asking the federal government to up her potential settlement share to \$4.5 million, or that Epstein, Becker advised her to settle, saying Blue Cross was twisting her deposition statements.

Kopit said that he and not Burr brought up asking for more of the settlement.

"I thought that could be a way to settle the lawsuit — if she got more — and she refused," Kopit said.