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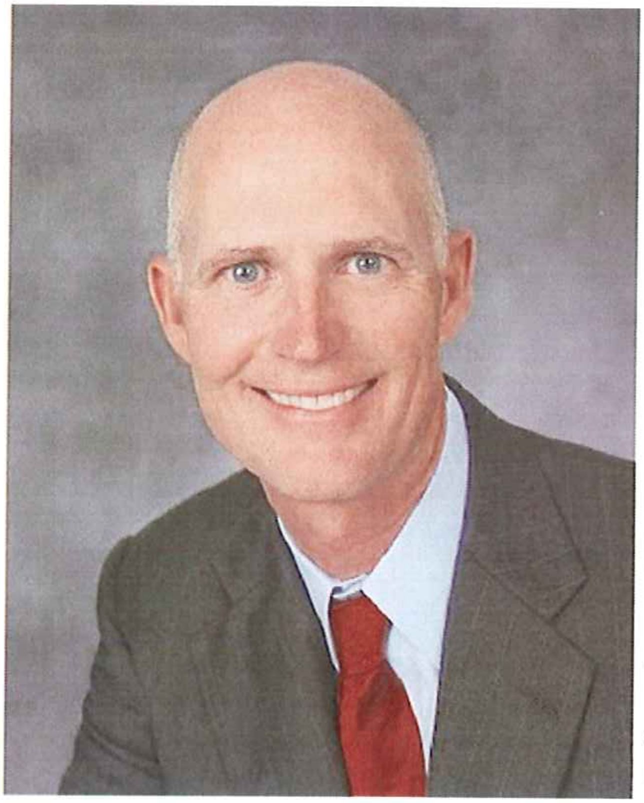
Rick Scott and his role in Columbia/HCA scandal

BY SCOTT HIAASEN AND JOHN DORSCHNER
shiaasen@MiamiHerald.com



Rick Scott.

As he meets Republicans around Florida, Rick Scott, the new front-runner in the Florida governor's race, has been greeted with applause -- and with blunt questions about his past.

At a recent GOP breakfast in Tampa, Scott was confronted -- not for the first time -- about his role in the scandals at Columbia/HCA, the massive healthcare company that Scott ran for 10 years. Scott resigned in 1997 amid an FBI probe that ultimately led to the company paying a record $1.7 billion in criminal and civil fines for Medicare fraud.

It's the paradox of Scott's upstart campaign: The novice candidate has touted his stature and experience as the get-things-done CEO of what was once the nation's largest for-profit healthcare company, while also trying to distance himself from Columbia/HCA's notorious legacy of fraud.

The strategy has worked so far. Thanks largely to a $16 million advertising blitz he financed himself, Scott -- who moved to Florida seven years ago -- now leads in the polls over fellow Republican Bill McCollum, the state attorney general and former congressman.

``As I have said repeatedly, Columbia/HCA made mistakes, and I take responsibility for what happened on my watch as CEO," Scott said in a written statement Friday. He has denied knowing frauds were taking place while he was there, and he was never charged with any crimes.

However, federal investigators found that Scott took part in business practices at Columbia/HCA that were later found to be illegal -- specifically, that Scott and other executives offered financial incentives to doctors in exchange for patient referrals, in violation of federal law, according to lawsuits the Justice Department filed against the company in 2001.

The doctor payments were among 10 different kinds of fraud identified by the Justice

Department in its 10-year probe of the company, records show. Three years after Scott left Columbia/HCA, the company admitted wrongdoing, pleading guilty to 14 felonies -- most committed during Scott's tenure -- in addition to paying two sets of fines totaling $1.7 billion.

Scott declined interview requests from The Miami Herald, and though his campaign issued a statement, it did not respond to specific questions about his tenure at Columbia/HCA.

In his statement, Scott said: ``An army of federal investigators spent seven years examining every aspect of this case. If they found any merit in these allegations . . . they would have certainly charged me, or at the very least questioned me -- neither of which ever happened."

On his campaign website, Scott said that he would have corrected any problems at the company ``immediately" had he known about them. But a former company insider told The Miami Herald that he warned Scott in a meeting of ``significant problems" at least six months before Scott's resignation, which came nine days after the FBI raided 33 Columbia hospitals and offices in six states.

The insider, attorney Jerre Frazier, who was brought in by a Columbia/HCA board member to root out the company's problems, said he did not believe Scott personally approved any illegal conduct. But, he said: ``Rick is a bright guy, and he picked up on what was happening."

The Scott campaign dismissed Frazier as a ``disgruntled former employee."

Whether or not Scott was aware of his company's questionable conduct, the breadth of the problems raises questions about Scott's leadership, management experts say.

Nell Minow of the Corporate Library, a watchdog group, put it this way: ``Being ignorant of all that doesn't inspire confidence." In judging a CEO, she said, ``it's no better to be a schnook than a crook."

The key question for Scott is whether he can persuade voters that he deserves to be chief executive of Florida while at the same time insisting that he knew nothing about the greatest Medicare fraud in American history as it happened under his nose.

FAST RISE TO THE TOP

Scott was a lawyer in Dallas specializing in mergers in the healthcare field when he decided to get into the business himself. With a partner, he started Columbia in 1987 using his life savings of $125,000 as down payment for two downtrodden hospitals in El Paso. Columbia expanded from Texas to Florida before gobbling up two other hospital companies -- the largest being HCA, founded by the politically connected Frist family of Tennessee, which at the time owned 96 hospitals.

As CEO, Scott was famous for his aggressive style, chopping costs while staring down competitors, and bringing a free-market philosophy to a historically unwieldy industry. The company routinely targeted nonprofit hospitals for takeover, threatening to open competitive hospitals to make the deal, Frazier said.

Scott's approach drew accolades: In 1996, he was named one of Time magazine's most influential Americans; the following year, a Fortune magazine survey deemed his company, now called Columbia/HCA, the most admired healthcare company.

By 1997, Columbia/HCA owned more than 340 hospitals -- 55 of them in Florida -- and 550 home-health agencies in 37 states. With $19 billion in annual revenue, it was the largest for-profit hospital chain in the United States, and the country's ninth-largest employer.

``There were a lot of admirable things about Rick Scott," Frazier recalled. ``He was a very hard worker. He treated people with courtesy. I don't think he was driven by money, just driven by keeping score."

Frazier said Scott created a tough corporate atmosphere in which the top-producing managers were given huge bonuses and the lowest performing were canned. While this helped spur profits, critics said this cutthroat culture led some managers to cross legal lines.

Chief among the critics: some 30 whistle-blowers -- company employees, doctors and contractors -- who first exposed the frauds in lawsuits filed against Columbia/HCA between 1993 and 1997. Some employees said they were fired or punished for raising their concerns with supervisors; one said she was instructed by her boss to erase records from her computer at a Miami Beach hospital, court records show.

The whistle-blowers and their lawsuits helped guide the Justice Department's decade-long probe of the company. A Fort Myers accountant, for example, wore a wire for nine months to spy on several Southwest Florida hospitals for the FBI.

The investigation bore out many of the whistle-blowers' accusations, leading to Justice Department charges that Columbia/HCA had defrauded Medicare in several ways. The company ultimately admitted it had committed 10 different kinds of fraud.

Among them: that Columbia/HCA exaggerated the illnesses of Medicare patients to inflate patient bills, and disguised the purchase price of home healthcare agencies to dump some of the costs on Medicare.

The company also admitted making illegal kickbacks to doctors in exchange for patient referrals -- a scheme that federal investigators traced back to the very first hospitals purchased under Scott in El Paso, court records show.

Scott was not prosecuted, nor were any high-ranking company executives. The lead investigator in the case later wondered if investigators should have been more aggressive.

``After Columbia/HCA, I realized people, individual corporate officers, had to be held accountable for the actions of their companies," former Tampa FBI agent Joe Ford said in a whistle-blower's book about the Columbia/HCA case. ``Instead of just giving us [the government] money, people need to go to jail. I learn from my mistakes and this was my first big one."

Ford -- who later led the Enron investigation and became an FBI assistant director -- declined the Miami Herald's interview requests.

In fact, a pair of former Columbia executives were punished: After the government reached its settlement with Columbia/HCA in late 2000, a former division president and another executive quietly pleaded guilty in El Paso to felony charges stemming from the doctor payments, court records show. Both men were sentenced to probation and fines after admitting they concealed from a lender a scheme to give office space to doctors at free or reduced rent.

LAVISH TRIPS, OTHER

FREEBIES FOR DOCTORS

From Columbia's beginning, Scott and his partners sought to increase revenue at their hospitals by seeking patient referrals from area physicians, the Justice Department said. To win over doctors, they offered sweeteners, from lavish trips -- fishing in Costa Rica, dove hunting in Mexico -- to free office rent, discounted pharmaceuticals, and bogus consulting jobs, according to investigators.

Though Scott had a reputation as a hard-edged negotiator, he also was an able salesman. ``He could charm a bird out of a tree," said James Thompson, a retired Corpus Christi doctor who became a whistle-blower. ``I guarantee, you meet him, you'll like him."

Many doctors received ownership shares in the hospitals -- without investing any of their own money. Justice Department lawyers said Scott and the company tied these ``sham investments" to the number of patients doctors brought to the hospitals. The government later said these enticements violated federal anti-kickback statutes, which prohibit hospitals from making offers to doctors in return for Medicare referrals. Congress passed the law fearing that such arrangements endangered patients by creating incentives for unnecessary treatment.

``All of the shares I got, I never paid a dime for," Thompson said in an interview. He brought his concerns about the arrangement to the FBI, and later received $41 million for his claim as part of the settlement with Columbia/HCA.

``They assured every one of us that it was all legal and above board. It turned out that it wasn't," Thompson said.

Government investigators said in court documents that Scott gave $2,500 to $5,000 to some doctors to cover their initial investments. Scott and a partner ``told physicians if they referred X number of patients, their expected distribution [from the hospital] would be Y, and that as their referrals increased, so would their distributions," a Justice Department lawsuit said.

Columbia executives knew their strategy was risky: A lawyer for the company warned as early as 1988 that offering ownership to doctors for referrals could violate the anti-kickback law, according to the Justice Department suit. But company bosses ignored the advice and ``structured the transaction exactly as the lawyer warned them not to do," the suit says.

The strategy proved profitable. Federal investigators said Columbia made $6.9 million in illegal payoffs to 77 El Paso doctors -- and in return received $103 million in Medicare business, court records show.

THE WAY TO GET

MEDICARE TO OVERPAY

In addition to the doctor payments, whistle-blowers inside and outside the company -- from Miami to remote Montana -- also questioned Columbia/HCA's methods of billing Medicare.

The questions eventually led to a federal investigation -- and $900 million in fines.

About $400 million of the fines came from cheating on direct patient billing -- called upcoding -- in which Columbia/HCA filed claims stating that patients were sicker than they really were. A New York Times analysis of 30 million billing records found that Columbia/HCA frequently charged more on average for its patients than other companies.

Another Medicare fraud investigators found -- leading to $500 million in fines -- involved cost reports, which are used by the federal agency to reimburse hospitals through complex formulas for overhead such as interest and depreciation.

The first to complain was James Alderson, an accountant at the 44-bed North Valley Hospital in Whitefish, Mont., which was managed by an HCA subsidiary.

Alderson said managers ordered him in 1990 to start keeping two sets of cost-report books: One, to be sent to Medicare, had inflated expenses. The other would list a lower amount -- the legitimate expenses. The hospital would keep a reserve for several years to repay Medicare if the agency discovered the discrepancy, Alderson said.

``I told them I'm not going to do that,'' Alderson recalled in an interview. Several days later, he was fired.

Alderson filed his whistle-blower suit in 1993 -- a year before Scott's Columbia took over HCA. For years, the filing was kept under seal but eventually became public in the feds' assault on Columbia/HCA. He was later profiled on *60 Minutes*.

In Florida, a Columbia accountant, John Schilling, found similar problems. In 1994, a Medicare investigator called to ask about a $3.5 million charge on a cost report for Fawcett Memorial in Port Charlotte.

Columbia managers told him that the previous owner of Fawcett had made a mistake on the cost report, but ``they basically didn't want to pay for the mistake,'' Schilling said. He said he was told to get the investigator off the trail, even by offering her a job.

``I tried to get management to stop these practices and pay back the money,'' Schilling told The Herald. When managers refused, he quit and filed a sealed whistle-blower suit. The FBI then asked him to go back to work for Columbia.

He did. ``I wore a wire, recorded phone calls, recorded meetings. I drew floor plans of the offices, where the filing cabinets were,'' he said, ``getting the type of information they needed for their search warrants.''

Schilling learned that Columbia/HCA was regularly submitting falsified cost reports, with managers spurred on by the desire for bonuses. His work led to indictments of four mid-level managers in Florida. Two were convicted. The verdicts were overturned on appeal.

The complaints of Schilling and Alderson guided investigators toward other documents and witnesses indicating that many Columbia/HCA hospitals were engaged in the same activity.

So common was the practice that a significant chunk of the company's overall finances -- perhaps as much as $1 billion -- was money held in reserve in case Medicare complained, according to the two accountants, who spent years studying the reserves for their suits. They said the reserves were shifted to profits after the company felt Medicare wouldn't question the cost reports.

``Those reserves were contributing 25 to 30 percent of their profits. Scott must have known what that money was," Alderson said.

On his website, Scott replies that proper accounting requires ``reserves be maintained. Those reserves are monitored by internal and external auditors and would certainly have covered receivables or billings." His website also suggested that Schilling and Alderson were motivated not by ethics but by money.

Because their complaints led to the largest fines, Schilling and Alderson received the largest share of the Columbia/HCA settlement, splitting $100 million. Schilling described his work in a 2008 book *Undercover: How I Went from Company Man to FBI Spy -- and Exposed the Worst Healthcare Fraud in U.S. History.*

HEADQUARTERS

LEARNS OF THE PROBE

By the fall of 1996, rumors of a federal investigation had seeped into Columbia/HCA's headquarters. Board member Tommy Frist -- brother of then-Sen. Bill Frist of Tennessee -- called in Frazier, the lawyer-accountant and member of the law firm of former Sen. Howard Baker, a Frist friend. Frist asked Frazier to look for ``compliance problems," or Medicare violations, at the company.

``It didn't take long at all to determine they had significant compliance problems," Frazier said.

He found the bonus-driven culture at HCA was leading to problems. As the company gobbled up hospitals, it acquired many poor performers, Frazier said. Executives stuck with ``dog hospitals" were under intense pressure to boost performance, but Frazier never saw an executive directly order underlings to commit illegal acts.

Some hospitals had compliance departments, to emphasize to employees the need to follow Medicare's complex rules, but not Columbia/HCA. ``I don't think Rick Scott had given a thought about focusing on compliance," Frazier said.

In early 1997, Frazier met with Scott and reported ``very significant areas of concern." Frazier said he had found more than 20 areas, but he focused on the 10 most problematic, including those the feds later identified.

``We were talking about some really big dollar amounts," recalled Frazier. ``He said we're not doing anything different than anyone else in the healthcare industry is doing."

Plans were made for Frazier to present the problem to the board at an early 1997 meeting, but he said he was told the board ran out of time to hear the presentation.

THE FIRST FBI RAID

On March 19, FBI agents raided Columbia's offices and hospitals in El Paso, carting off boxes of material. That day, HCA's leadership was in Washington for an annual manager's conference.

Frazier, the attorney-accountant insider, said Scott gathered a small group of executives to discuss the raid. He told them the company would comply with the government investigation, but he thought Columbia was being singled out by the Clinton administration because of Scott's opposition to healthcare reform. ``He said, `We're no worse than anyone else.' "

On July 16, the FBI issued search warrants on 18 Columbia hospitals and 15 other locations in Florida and five other states.

Nine days after the second raid, Scott resigned, replaced by Frist, who publicly promised ``full cooperation" with investigators and said employees would be ``in full compliance with the law."

On his website, Scott said he resigned because he thought the company should fight any charges, while the majority of board members wanted to reach a settlement.

Scott, who had been earning a base salary of $900,000, was given a $5.1 million cash severance, office and secretarial expenses for two years, and up to five years' work as an HCA consultant at $950,000 a year. He also left with about $300 million in stock and options.

Within two weeks, Frist announced ``significant steps" to address the concerns of government investigations.

The company eliminated cash bonuses. It made plans to sell the maligned home care division, stop selling shares in hospitals to doctors, enforce stronger guidelines on transactions with physicians, reveal second sets of cost reports if they existed, review billing practices and create a compliance program.

The changes proved disastrous for HCA finances. After a $1.5 billion profit in 1996, HCA suffered a $305 million loss in 1997. The reasons, according to the annual report: changes made by the new executives and ``unfavorable media coverage related to the investigations." Among the expenses were $44 million for professional services to deal with the investigation.

In 2000, after three years of negotiations, the company, renamed HCA, paid $840 million to settle some of the civil claims. The company also pleaded guilty to 14 felonies, paying $95 million in criminal fines -- including $30 million for illegal payments to doctors.

Three years later, during the George W. Bush administration, HCA paid another $881 million in fines and reimbursements to the federal government. Some of the fines related to fraud that occurred at HCA in the years before Scott's company took it over.

By the time HCA struck its final settlement with the feds, Scott had moved on to Naples and a new venture: Solantic, a chain of walk-in clinics from Pembroke Pines to Jacksonville that Scott co-founded in 2001. He emerged as a political force last year with his nonprofit group Conservatives for Patients' Rights, which financed much of the opposition to President Obama's healthcare reforms.

Scott's campaign has portrayed his former company as a victim of overly zealous prosecutors during a Medicare fraud crackdown in the 1990s. Several other companies were also fined over billing issues during that time, Scott's campaign has noted.

``I learned very hard lessons from what happened and those lessons have helped me become a better businessman and leader," Scott says on his campaign website. ``Lessons I will bring to the governorship."

Miami Herald staff writer Lesley Clark contributed reporting from Washington.
