

1 DAVID HALL, ESQ. Bar No. 6333
Insurance Counsel
2 State of Nevada
Department of Business and Industry
3 Division of Insurance
1818 E. College Parkway
4 Carson City, NV 89706
Tel: (775) 687-0708
5 Email: dhall@doi.nv.gov

6 *Attorneys for State of Nevada*
Division of Insurance

7 IN THE SECOND JUDICIAL DISTRICT COURT OF
8 THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

9 STATE OF NEVADA, EX REL.
10 COMMISSIONER OF INSURANCE, IN
HER OFFICAL CAPACITY AS
11 STATUTORY RECEIVER FOR
DELINQUENT DOMESTIC INSURER,

12 Petitioner,

13 vs.

14 PHYSICIANS INDEMNITY RISK
15 RETENTION GROUP, INC., a Nevada
Domiciled Association Captive Insurance
Company,

16 Respondent.

Case No. CV20-000496

Dept. No. 1

17
18 **STATUS REPORT**

19 COME NOW, Barbara D. Richardson, Commissioner of Insurance (the
20 “Commissioner”) for the State of Nevada in her capacity as Temporary Receiver of
21 Physicians Indemnity Risk Retention Group, Inc., (“PIRRG” or the “Company”), and
22 Regulatory Services Group (“RSG”), Receivership Manager of PIRRG, and file this Status
23 Report in the above-captioned receivership.

24 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

25 PIRRG is an incorporated association formed as a captive insurance company
26 organized under the insurance laws of the State of Nevada and the Liability Risk
27 Retention Act of 1986. In accordance with Chapter 694C of the Nevada revised statues
28

1 (NRS) PIRRG operates as a risk retention group as that term is defined by NRS
2 694C.141. PIRRG is domiciled in the State of Nevada and received its initial Certificate of
3 Authority on July 28, 2006. PIRRG received an amended Certificate of Authority on
4 February 8, 2018 thereby updating its statutory home office to Reno, Nevada. As a risk
5 retention group, PIRRG wrote professional liability insurance to physicians and their
6 medical groups under claims-made indemnity policies.

7 PIRRG's December 31, 2018 audited financial statement and RBC Report, both
8 filed on April 1, 2019 in accordance with NRS 680A.270 and NRS681B.550, reported the
9 risk retention group's RBC had dropped to 185.6% thereby casting genuine doubt upon
10 the independent auditor's assessment that PIRRG would be able to continue operating as
11 a going concern. On July 22, 2019 the Commissioner determined PIRRG was operating in
12 a hazardous financial condition and notified PIRRG of the regulatory impairment.
13 After the submission of three proposed Corrective Action Plans submitted by PIRRG
14 between May and September of 2019, all of which were reviewed by the Nevada Division
15 of Insurance and thereafter deemed insufficient to address and resolve the RBC and
16 financial impairment of the risk retention group to the satisfaction of the Commissioner
17 and her regulatory staff. On November 19, 2019, the Commissioner issued a Notice of
18 Rejection of Third Corrective Action Plan and Confidential Order Imposing Corrective
19 Action ("Corrective Order").

20 The Corrective Order required PIRRG to fulfill certain requirements that
21 adequately address the RBC issue. Specifically the Corrective Order included, but was
22 not limited to, the infusion of \$800,000 of new capital and surplus within 30 days of the
23 date of the Corrective Order or December 19, 2019. A further requirement was that
24 PIRRG's December 31, 2019 RBC ratio be in excess of 300%. PIRRG did not fulfill either
25 of these requirements of the Corrective Order within the required timeframe.

26 On January 31, 2020 PIRRG's captive manager reported a negative surplus for the
27 risk retention group as of December 31, 2019. On March 2, 2020, PIRRG failed to submit
28 to the Commissioner a required report of its financial condition pursuant to NRS

1 694C.400. On March 6, 2020 PIRRG submitted an unsigned financial report indicating it
2 was insolvent pursuant to NRS696B.110.

3 The foregoing facts associated with PIRRG’s financial impairment constituted
4 sufficient grounds for a formal delinquency proceeding pursuant to NRS 696B.210 and
5 NRS 696B.220.

6 On March 12, 2020, the Commissioner petitioned this Court pursuant to NRS
7 696B.250 to seek her appointment as Receiver of PIRRG for the purpose of its
8 rehabilitation, conservation or liquidation, and to grant permanent injunction and other
9 relief authorized by Chapter 696B of the NRS and other applicable law in order to protect
10 PIRRG’s policyholders, creditors and the public from the dangers and risks inherent to
11 the delinquency of this entity.

12 On March 19, 2020 this Court granted injunctive relief and appointed the
13 Commissioner as Temporary Receiver and issued an order, pursuant to NRS 696B.250(2)
14 and further directing PIRRG to appear in court on March 31, 2020 and show cause why
15 the Commissioner's petition should not be granted. On March 26, 2020 PIRRG filed a
16 peremptory challenge and the case was reassigned to Department 1, thereafter on April
17 7, 2020, after consulting with both parties, this court rescheduled the hearing to Show
18 Cause from March 31, 2020 to May 27, 2020.

19 On April 2, 2020 the Nevada Insurance Commissioner in her court-appointed
20 capacity as Temporary Receiver of PIRRG retained the services of Regulatory Services
21 Group to act as the Special Deputy Receiver for PIRRG. Regulatory Services Group
22 (“RSG” or “Special Deputy”) acting as the Special Deputy Receiver is vested with all the
23 rights, duties and authority of the Temporary Receiver, subject to the supervision of the
24 Nevada Insurance Commissioner as Temporary Receiver and of the Court.

25 **II. RECEIVERSHIP ADMINISTRATION**

26 **A. Notices of Receivership and Notification of Interested Parties**

27 The Special Deputy Receiver prepared and mailed notices of the receivership order
28 and formal appointments to all known PIRRG principals, PIRRG’s captive manager as

1 well as their counsel (including various defense counsel) as well as any interested parties
2 of the receivership. The notice contained contact information for questions and where to
3 find copies of the receivership orders. Additionally, the Regulatory Services Group
4 website has been updated with the notice and links to view and obtain copies of the
5 permanent receivership order.

6 The Special Deputy Receiver also provided a certified copy of the temporary
7 receivership order on the Company's depository and treasury banking partners Well
8 Fargo Bank and Merrill Lynch respectively. The Special Deputy Receiver has signed the
9 proper signatory documents prepared by Wells Fargo Bank and Merrill Lynch to take
10 control of all of PIRRG's know bank and investment accounts.

11 Counsel for the Special Deputy Receiver served notice of the receivership and
12 copies of the temporary receivership order to PIRRG's agent of service as well as counsel
13 for the risk retention group.

14 The Special Deputy Receiver has received access to various records and documents
15 associated with PIRRG that are in the possession and custody of the risk retention
16 group's captive manager Strategic Risk Solutions ("SRS") as well as the home office in
17 Wesley Chapel, Florida. The Special Deputy Receiver also understands a number of
18 claim and legal files are in the custody of the risk retention group's CEO Steve Adler and
19 or the entity Melsar Risk Management Services, Inc. ("Melsar"). Due to ongoing civil
20 restrictions and the continuance of the pending show cause hearing, the Special Deputy
21 Receiver has not taken physical possession and or relocated/consolidated PIRRG's books
22 and records, but has confidence all records are securely stored with the various parties
23 described above.

24 **B. PIRRG Policies**

25 As of September 30, 2020 all but approximately 10 PIRRG policies had been transferred
26 to new insurers. The majority of PIRRG members had their policies transferred via
27 formal agreement to ISMIE, a well-capitalized Illinois professional liability carrier that
28

1 insures a significant share of the professional liability market in Illinois. ISMIE is a
2 admitted carrier in Florida.

3 The Special Deputy Receiver retained and worked through the local PIRRG staff to
4 ensure all policies being accepted by ISMIE, on terms and conditions consistent with
5 their existing PIRRG coverage, were transferred as soon as possible. By the 3rd quarter of
6 2020 all policies scheduled to be transferred to ISMIE had been transferred. The few
7 remaining policies will be administered in the interim and ultimately cancelled, to the
8 extent they have not already lapsed on term, upon the placement of PIRRG into
9 permanent receivership. To help preserve the limited assets of PIRRG the Special Deputy
10 Receiver has placed a moratorium on various policy administration and claim expenses
11 and will address those obligations in conjunction with the placement of the impaired risk
12 retention group into permanent receivership.

13 **C. Policyholder Related Claims**

14 As of September 30, 2020 PIRRG reported \$2,354,543 in estimated policy liability
15 with 30 cases under some form of litigation or pre-litigation status. Notice of the PIRRG
16 temporary receivership injunction has been provided to all active defense counsel for
17 PIRRG. The Special Deputy Receiver has sought to gain a stay in all active proceedings
18 against PIRRG insureds pending further orders from this court. PIRRG's open claims
19 are not covered by any insurance guaranty statutes but the reciprocal has a reinsurance
20 program in place that may serve to pay a portion of any claims exposure or other claim-
21 related obligations. The Special Deputy Receiver has reviewed and actively monitors the
22 open claims and legal cases through inherited defense counsel as well as PIRRG's CEO
23 Steve Adler. Ultimately, the Special Deputy Receiver will conduct a proof of claim
24 process in accordance with Nevada's distribution priority statutes thereby seeking to
25 determine and pay approved claims on an equitable basis subject to the limitations on
26 available PIRRG assets.

1 **D. Records and Assets Control**

2 The Special Deputy Receiver has located and taken legal control of most of
3 PIRRG's books and records, both tangible and electronic. The majority of PIRRG's
4 records are maintained in electronic format at the risk retention group's home office in
5 Wesley Chapel, Florida and also with PIRRG's captive manager Strategic Risk Solutions
6 at their offices in Arizona. It is the understanding of the Special Deputy Receiver that
7 most all claim and claim related hardcopy files as well as electronic files are in the
8 custody and possession of Steve Adler PIRRG's CEO and or at the offices of Melsar Risk
9 Management Services ("Melsar"). In addition to the legal files held by Mr. Adler and
10 Melsar there are various case files in the respective offices of defense counsel
11 representing PIRRG insureds. It is also the understanding of the Special Deputy
12 Receiver that various legal files associated with the pending reinsurance arbitrations and
13 the alleged case against AON are all in the custody of Leverty and Associates in Reno,
14 Nevada. The Special Deputy has yet to receive any of these files or information from the
15 law firm despite repeated formal requests. As a result of records being held by parties
16 in various locations and states, coupled with current civil restrictions and court
17 continuances, both associated with the ongoing COVID pandemic, the process of
18 collecting all of PIRRG's documents and information will require additional time to
19 complete upon further ruling from this court, specifically in obtaining the claims and
20 claims handling records.

21 In addition to records control, the Special Deputy Receiver has taken control of
22 PIRRG's bank and treasury accounts. The Special Deputy Receiver has provided formal
23 notice of the PIRRG Receivership Order to Wells Fargo Bank the risk retention group's
24 depository bank vendor as well as Merrill Lynch who held PIRRG's investments. All
25 known bank accounts and treasury accounts are now in the control of the Special Deputy
26 Receiver.

27 ///

28 ///

1 **E. Financial Analysis**

2 As of September 30, 2020 PIRRG’s liabilities exceed its assets by \$980,806. In
3 addition, PIRRG has current assets of \$1.3 million and current liabilities of \$2.9 million.
4 Based on the PIRRG’s current financial condition, it is insolvent within the meaning of
5 NRS696.110(1). Specifically, PIRRG’s current assets are comprised of \$214,988 in cash or
6 cash equivalents in their Wells Fargo claims and operating account at September 30,
7 2020. In addition to cash at Wells Fargo, PIRRG held \$1,174,662 in treasury investments
8 for total cash and invested assets of \$1,389,650 as of September 30, 2020. Additionally,
9 for the period ending September 30, 2020 PIRRG reported a reinsurance asset of
10 approximately \$3,416,000 due from the risk retention group’s reinsurance partners in the
11 London Markets. This estimated recovery has not been verified by the Special Deputy
12 Receiver and is subject to formal dispute. Based on the impaired financial condition of
13 PIRRG and the uncertainty associated with the reinsurance program the Special Deputy
14 Receiver will seek to assess and validate the likely recoveries under the reinsurance
15 program including pending arbitrations with the London Market reinsurers. The
16 temporary receiver has updated the billings to the London Market through June 30, 2020
17 and has inquired about the billing and expected timeframe of a recovery. The Special
18 Deputy Receiver has made initial contact with counsel representing the London Market
19 reinsurers and, subject to further orders of this court, will seek to resolve the pending
20 billing dispute as well as evaluate the terms of the idle arbitration proceedings.

21 **F. Ongoing Priorities**

22 The Special Deputy Receiver will continue to remain focused on the resolution of
23 the key reinsurance disputes and collections, seek to evaluate the strength and
24 requirements associated with certain litigation reportedly being asserted by Leverty and
25 Associates against AON related to the placement of certain reinsurance treaties.

26 The Special Deputy Receiver, in coordination with SRS and the PIRRG home office
27 staff, continues to process the weekly payroll and essential vendor expenses. All non-
28 essential expenses have been suspended subject to further order of this court. As

1 mentioned above, PIRRG insureds do not enjoy the “safety net” coverage benefits of an
2 insurance guaranty association as such the Special Deputy Receiver must balance
3 ongoing expenses and potential recoveries against the prospect of PIRRG’s current
4 impaired financial condition. This balancing effort is proving to be a significant challenge
5 due to continuing delays associated with the pending show cause hearing to consider a
6 permanent receivership and liquidation.

7 **CONCLUSION**

8 In compliance with NRS 696B.290(7), the Special Deputy Receiver submits the
9 aforementioned report and respectfully requests that this Court approve this status
10 report and the actions of the Receiver and Receivership Manager.

11 DATED: January 12, 2021

12
13 Barbara D. Richardson, Commissioner of
14 Insurance of the State of Nevada, in her Official
15 Capacity as Statutory Receiver of Delinquent
16 Domestic Insurers

17 By: /s/ Scott Pearce
18 Scott Pearce
19 Regulatory Services Group
20 Receivership Supervisor

21 Respectfully submitted by:

22 By: /s/ David Hall
23 DAVID HALL(Bar No. 6333)
24 *Attorney for the Commissioner of Insurance as Receiver*

