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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
11 OFFICIAL CAPACITY AS STATUTORY
12 RECEIVER FOR DELINQUENT DOMESTIC
13 INSURER,

12 Petitioner,

13 vs.

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

17 Respondent.

Case No. CV20-00496

Dept. No. 1

SIXTH STATUS REPORT

18
19 COME NOW, Barbara D. Richardson, Commissioner of Insurance (the “Commissioner”) for the
20 State of Nevada in her capacity as Permanent Receiver of Physicians Indemnity Risk Retention Group,
21 Inc., (“PIRRG” or the “Company”), and Regulatory Services Group (“RSG”), the Special Deputy
22 Receiver of PIRRG, and file this Sixth Status Report in the above-captioned receivership.

23 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

24 PIRRG was an incorporated association formed as a captive insurance company organized
25 under the insurance laws of the State of Nevada and the Liability Risk Retention Act of 1986. In
26 accordance with Chapter 694C of the Nevada Revised Statutes (NRS), PIRRG operated as a risk
27

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

6 PIRRG's December 31, 2018 audited financial statement and RBC Report, both filed on April 1,
7 2019 in accordance with NRS 680A.270 and NRS 681B.550, reported the risk retention group's RBC
8 had dropped to 185.6% thereby casting genuine doubt upon the independent auditor's assessment that
9 PIRRG would be able to continue operating as a going concern. On July 22, 2019 the Commissioner
10 determined PIRRG was operating in a hazardous financial condition and notified PIRRG of the
11 regulatory impairment. After the submission of three proposed Corrective Action Plans submitted by
12 PIRRG between May and September of 2019, all were reviewed by the Nevada Division of Insurance
13 and thereafter deemed insufficient to address and resolve the RBC and financial impairment of the risk
14 retention group to the satisfaction of the Commissioner and her regulatory staff. On November 19,
15 2019, the Commissioner issued a Notice of Rejection of Third Corrective Action Plan and Confidential
16 Order Imposing Corrective Action ("Corrective Order"). However, PIRRG did not fulfill the
17 requirements of the Corrective Order within the required timeframe.

18 On January 31, 2020, PIRRG's captive manager reported a negative surplus for the risk retention
19 group as of December 31, 2019. On March 2, 2020, PIRRG failed to submit to the Commissioner a
20 required report of its financial condition pursuant to NRS 694C.400. On March 6, 2020 PIRRG
21 submitted an unsigned financial report indicating it was insolvent pursuant to NRS 696B.110. The
22 foregoing facts associated with PIRRG's financial impairment constituted sufficient grounds for a
23 formal delinquency proceeding pursuant to NRS 696B.210 and NRS 696B.220.

24 On March 12, 2020, the Commissioner petitioned this Court pursuant to NRS 696B.250 to seek
25 her appointment as Receiver of PIRRG for the purpose of its rehabilitation, conservation or liquidation,
26 and to grant permanent injunction and other relief authorized by Chapter 696B of the NRS and other

1 applicable law in order to protect PIRRG’s policyholders, creditors and the public from the dangers and
2 risks inherent to the delinquency of this entity. Thereafter on March 19, 2020, this Court granted
3 injunctive relief and appointed the Commissioner as Temporary Receiver and issued an order,
4 pursuant to NRS 696B.250(2) and further directing PIRRG to appear in court and show cause why the
5 Commissioner's petition should not be granted.

6 On April 2, 2020 the Nevada Insurance Commissioner in her court-appointed capacity as
7 Temporary Receiver of PIRRG retained the services of Regulatory Services Group to act as the Special
8 Deputy Receiver for PIRRG. Regulatory Services Group (“RSG” or “Special Deputy Receiver” or
9 “SDR”) acting as the Special Deputy Receiver is vested with all the rights, duties and authority of the
10 Temporary Receiver, subject to the supervision of the Nevada Insurance Commissioner as
11 Temporary Receiver and of the Court.

12 On March 29, 2022, this Court entered an Order of Permanent Receivership (“Permanent
13 Receivership Order”) and an Order Granting Motion for Liquidation (“Liquidation Order”).

14 **II. RECEIVERSHIP ADMINISTRATION**

15 **A. Notices of Developments in Receivership**

16 Subsequent to the entry of the Permanent Receivership Order and a Liquidation Order, on April
17 22, 2022, the Receiver filed a Motion Requesting the Setting of a Claims Filing Deadline and
18 Requesting Related Relief (“Claims Motion”). Therein, the Receiver seeks to set a claims filing
19 deadline of December 1, 2022.

20 In addition to the filing of the Claims Motion, the SDR has taken steps to consolidate the
21 remaining estate assets and decrease costs associated with the receivership including: terminating the
22 services and associated payroll expense of the two remaining PIRRG full time employees; completing
23 the final transfer of all open estate claim files and policyholder system data (thereby eliminating the
24 costs to maintain the remote policyholder system): and surrendering the office space used by PIRRG
25 (thereby discontinuing the monthly rent and general office expenses).

1 To effectuate the same, the Special Deputy Receiver travelled to Florida and worked to clear,
2 clean and close the Wesley Chapel office of PIRRG. The local office had been reduced to only essential
3 services and systems while awaiting the final ruling of the court. As of March 31, 2022, PIRRG has
4 surrendered its lease-space and discontinued all local operations in Florida. All open hardcopy claims
5 and claim related files have been shipped to the offices of the Special Deputy Receiver, and all
6 remaining services and vendors have been discontinued with the exception of one part-time contractor
7 to assist on an as-needed basis with any final local issues.

8 The Special Deputy Receiver also received a notice of termination from Strategic Risk
9 Solutions (“SRS”) who was acting as PIRRG’s captive manager. SRS’s services will not be utilized
10 going forward and expenses related to the same eliminated.

11 **B. PIRRG Policies**

12 As previously reported, as of December 31, 2021, all but eleven PIRRG policies (all involving
13 tail coverage risk) were transferred to new insurers or expired on their own terms. As a result of the
14 Permanent Receivership Order, all primary in-force malpractice insurance has now lapsed.
15 However, the Receiver proposes extending the claims reporting period for tail coverage only, through
16 the receivership claims filing deadline as further set forth in the Claims Motion.

17 **C. Policyholder Related Claims**

18 As of March 31, 2022, PIRRG reported \$3,539,825 in estimated gross policy liability¹ with
19 34 open claims, all of which fall under some form of litigation or pre-litigation status. Notice of the
20 PIRRG temporary receivership injunction was provided to all active defense counsel for PIRRG and
21 the SDR sought to gain a stay in all active proceedings against PIRRG insureds. PIRRG’s open claims
22 are not covered by any insurance guaranty statutes but the reciprocal has a reinsurance program in place
23 that may serve to pay a portion of any claims exposure or other claim-related obligations. The Special
24 Deputy Receiver has provided periodic updates to policyholder defense counsel about the status of the
25

26 ¹ These numbers reflect adjustments to the previously reported policy liability based on netting
27 reinsurance and eliminating previously reported unearned premium.

1 receivership and any case developments. Additionally, the SDR has posted copies of the Permanent
2 Receivership Order and Liquidation Order on its website.

3 Subject to an order on the Claims Motion, the Special Deputy Receiver is prepared to commence a
4 proof of claim process in accordance with Nevada's distribution priority statutes thereby seeking to
5 determine and pay approved claims on an equitable basis subject to the limitations on available PIRRG
6 assets.

7 **D. Records and Assets Control**

8 The Special Deputy Receiver has control of most of PIRRG's books and records, both tangible
9 and electronic. The majority of PIRRG's records are maintained in electronic format at the offices of the
10 Special Deputy Receiver in San Francisco, California. Additionally, the Special Deputy Receiver has also
11 received the full complement of PIRRG's records held by its captive manager Strategic Risk Solutions.
12 As part of the recent closure of PIRRG's Florida office, the Special Deputy Receiver obtained a copy
13 of the policy administration system and records as well as all open claim and claim related
14 hardcopy files in the custody and possession of Steve Adler, PIRRG's former CEO, and/or located at
15 the offices of Melsar Risk Management Services ("Melsar"). In addition to the claim files held by
16 Mr. Adler and Melsar, there are various case files in the respective offices of defense counsel
17 representing PIRRG insureds. It is also the understanding of the Special Deputy Receiver that
18 various legal files associated with the pending reinsurance arbitrations and the case against AON are
19 in the custody of Leverty & Associates in Reno, Nevada. With the Permanent Receivership Order in
20 place, a renewed request for PIRRG documents from the firm Leverty & Associates was made.
21 Records recently received from Leverty & Associates are currently being reviewed and the claims
22 referenced herein evaluated.

23 The Special Deputy Receiver has also taken control of all known PIRRG bank accounts and
24 treasury accounts.

1 **D. Financial Analysis and Receivership Expenses**

2 With the entry of the March 29, 2022 Permanent Receivership and Liquidation Orders, PIRRG
3 financial statements are no longer prepared on a statutory accounting basis, and instead reflect the
4 Liquidator’s best estimate of the value of assets and liabilities of PIRRG at this time using a liquidation
5 basis for accounting. As of March 31, 2022, PIRRG’s liabilities exceed its assets by \$3,255,810
6 as PIRRG has reported assets of \$3,322,754 and liabilities of \$6,578,564. Specifically, PIRRG’s
7 current cash and short-term investments as of March 31, 2022, total \$270,560 which is comprised of
8 \$16,957 in cash or cash equivalents in their Wells Fargo operating account and a PIRRG Pool balance
9 of \$253,603.

10 Additionally, for the period ending March 31, 2022, PIRRG reported a reinsurance asset of
11 approximately \$2,545,436 due from the risk retention group’s reinsurance partners in the London
12 Markets on paid loss and LAE. This estimated recovery has not been verified by the Special Deputy
13 Receiver and is subject to formal dispute.² The Special Deputy Receiver continues to provide
14 updated financial data to the reinsurers and remains in periodic contact with counsel for the reinsurers
15 for the purpose of preserving a productive rapport and posture to seek an efficient resolution to the
16 receivable obligation. Counsel for the London Market reinsurers continues to express a willingness
17 to seek an equitable resolution to the PIRRG reinsurance program.

18 The Special Deputy Receiver renewed its request for legal files from PIRRG’s former counsel
19 to further evaluate reinsurance issues related to the stayed reinsurance arbitrations and associated
20 lawsuits against AON from Levery & Associates. Certain documents have been received and are
21 being reviewed to allow the SDR to better assess and evaluate the pending arbitrations and lawsuits.

22 Pending a resolution of these matters, the Special Deputy Receiver will prepare the loss and
23 loss adjustment expense data for PIRRG losses paid to date for submission to the London Market in
24

25 ² On August 8, 2019, PIRRG filed a lawsuit against AON Insurance Management (“AIM”) and AON Risk Services
26 of Florida (“ARS”) in Washoe County, Nevada, Case No. CV-19-01563, alleging various causes of action claiming
27 that the Defendants placed “illusory” reinsurance treaties with the Company that did not provide for a true risk
28 transfer for the years 2011 through 2017.

1 accordance with the terms of the reinsurance treaty. A copy of PIRRG’s March 31, 2022, quarterly
2 financial statements are attached as **Exhibit 1**.

3 From October 1, 2020, through March 31, 2022, the Special Deputy Receiver paid
4 and/or set aside reserves to pay \$1,131,945 in estate administrative expenses maintaining
5 the essential elements of the remaining entity and to stay compliant with the orders of this court over
6 the last seventeen months. The PIRRG expenses fall into a few distinct categories of administration.
Specifically, PIRRG paid the following over the period being reported:

7 Payroll (Adler/Kent salaries + part-time admin. position)	\$ 584,671
8 Captive Management Fees (SRS)	\$ 154,176
9 RSG (Sp. Deputy Receiver fees)	\$ 225,975
10 Legal Fees	\$ 102,712
11 Rent	\$ 32,220
12 Melsar (Adler claim fees)	\$ 8,657
13 Gen & Admin (phone, security, IT hosting, cleaning, etc.)	\$ 23,533

14 The Special Deputy Receiver has accounted for all invoices approved and paid on behalf of
15 PIRRG. In addition to the foregoing, the SDR, is preparing to file a motion in the near term relating to
16 rates, fees and establishing a process and procedure for payments of administrative expenses moving
17 forward.

18 **E. Third-Party Support**

19 Strategic Risk Solutions (“SRS”) has been assisting the Special Deputy Receiver with the
20 preparation and filing of regulatory financial statements and a limited portion of PIRRG reporting
21 operations. As referenced above, SRS has submitted a termination notice after acting as the captive
22 manager of PIRRG since 2017 and continuing in that role during the temporary receivership. SRS has
23 transitioned all PIRRG records in an electronic format to the Special Deputy Receiver.

24 As previously reported, the Receiver has engaged the law firm of Greenberg Traurig LLP
25 (“Greenberg Traurig”), as counsel in this receivership matter.

26 ///

1 **F. Ongoing Priorities**

2 With the entry of the Permanent Receivership Order, the Special Deputy Receiver has taken
3 steps to commence a proof of claim process to determine the total estate liability and ultimately will seek
4 court authority to release a distribution of estate assets to approved priority claimants. Additionally, as
5 referenced above, the SDR has taken steps to reduce or eliminate expenses by closing the Florida office
6 of PIRRG and terminating the last two individuals on payroll. Further, the Special Deputy Receiver is
7 working to review files relating to reinsurance issues and the lawsuit filed against AON and will further
8 assess the same.

9 **CONCLUSION**

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

12 DATED: May 12, 2022.

13 Respectfully submitted:

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

17 By: /s/ Joe Holloway

18 Joe Holloway
19 Temporary Deputy Receiver

20 Respectfully submitted:

21 By: /s/ Kara B. Hendricks

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27 *Attorneys for Petitioner*

AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: May 12, 2022.

By: /s/ Kara B. Hendricks
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Las Vegas, Nevada 89135

Attorneys for Petitioner

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the law firm of Greenberg Traurig, and that on the 12th day of
3 May, 2022, I filed the foregoing *Sixth Status Report* via this Court’s electronic filing system. Parties
4 are registered with this Court’s EFS and will be served electronically.

5 Vernon E. (“Gene”) Leverty
6 Attorney for Physicians Indemnity Risk Retention Group, Inc.
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8 Reno, Nevada 89502
9 gene@levertylaw.com

10 */s/ Andrea Lee Rosehill* _____

INDEX TO EXHIBITS

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Exhibit No.	Description	Number of Pages
1	PIRRG's Q-1 Financial Statements	3

EXHIBIT 1
Q1 2022 PIRRG Financial Statements

Physicians Indemnity Risk Retention Group, Inc.
 Liquidation Balance Sheet
 3/31/2022

ASSETS

Cash and Short Term Investments		\$	270,560
Net Premiums Receivable - Direct Policies			506,758
Reinsurance Receivable on Paid Loss and LAE, net of allowance for doubtful account	Note 1		<u>2,545,436</u>

TOTAL ASSETS 3,322,754

LIABILITIES AND SHAREHOLDERS' EQUITY

LIABILITIES

Net Reserves for Loss and Loss Adjustment Expenses	Note 2		2,498,155
Policy Cancellation Liability	Note 3		1,041,670
Net Ceded Reinsurance Premiums Payable	Note 4		2,306,405
Accounts Payable			<u>732,334</u>

TOTAL LIABILITIES 6,578,564

SHAREHOLDERS' EQUITY

Common Stock			
Class A Common Stock @\$2 par value			1,350,000
Class A Common Stock @\$1 par value			312,000
Class B Common Stock @\$1 par value			1,146,862
Additional Paid in Capital			468,402
Surplus Notes			275,000
Accumulated Deficit			<u>(6,808,074)</u>

Total Shareholders' Deficit (3,255,810)

TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY \$ 3,322,754

Physicians Indemnity Risk Retention Group, Inc.
Income Statement
1/1/2022 - 3/31/2022

INCOME

Investment Income (946)

TOTAL INCOME (946)

EXPENSES

Regulatory Services Group Fees 23,198

Legal Fees 102,712

Payroll and Fees 83,842

Captive Manager Fees 23,242

Office Expense 7,256

Travel 6,718

Delivery Expense 284

Postage 11

TOTAL EXPENSES 247,263

NET LOSS FOR THE PERIOD (248,209)

Physicians Indemnity Risk Retention Group, Inc.
Notes to Financial Statements
March 31, 2022

Introduction

On March 19, 2020 the Insurance Commissioner of the State of Nevada was appointed by the Second Judicial District Court of the State of Nevada as Temporary Receiver ("Receiver") of Physicians Indemnity Risk Retention Group, Inc. ("PIRRG") pursuant to NRS 696B.270(1) of the Nevada Revised Statutes. On April 2, 2020 pursuant to the authority granted the Receiver via the March 19th Receivership Order, the Receiver duly engaged Regulatory Services Group ("RSG") to act in the capacity of Receivership Manager and Special Deputy Receiver ("SDR"). Subsequent to year-end 2021, the Temporary Receiver has now been appointed Permanent Receiver and Liquidator as a result of the entry of an order for permanent receivership following a two day final show-cause hearing concluded in January 2022. The Nevada District Court (the Court) held a full day hearing on December 6, 2021 and a second full day hearing on January 14, 2022 to conduct the Order to Show Cause ("OSC") hearing to consider the merits of a permanent receivership. After submitting proposed orders to the Court on January 31, 2022 as instructed by the Judge, the Court entered a final ruling on March 28, 2022.

The March 31, 2022 balance sheet reflects the Liquidator's best estimate of the assets and liabilities of PIRRG at this time when accounted for using a liquidation basis of accounting. All liquidation basis assets must be able to be converted into cash in order to pay the approved claims of the insolvent estate. In addition, the cost to administer such assets must be accrued. The Liquidator will update the balance sheet as the investigation into account balances continues.

Note 1:

This asset has a stated value of \$3,457,436 with an allowance for doubtful account in the amount of \$912,000 at March 31, 2022.

Note 2:

Net reserves for loss and loss adjustment expenses at March 31, 2022 reflect the amounts carried on the Company's books to pay all claims for benefits under PIRRG policies. This amount will be adjusted once all proofs of claim are filed and determined by the Liquidator.

Note 3:

The policy cancellation liability reflects amounts due to policyholders when their PIRRG policy was cancelled.

Note 4:

The liability for ceded reinsurance premiums payable is an accrual for premium amounts due to reinsurers under certain reinsurance contracts.