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9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF WASHOE**

11 STATE OF NEVADA, EX REL.
12 COMMISSIONER OF INSURANCE, IN HER
13 OFFICIAL CAPACITY AS STATUTORY
RECEIVER FOR DELINQUENT DOMESTIC
INSURER,

Petitioner,

14 vs.

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

18 Respondent.

Case No. CV20-00496

Dept. No. 1

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21 **MOTION TO APPROVE PROFESSIONAL RATES & EXPENSES AND TO ESTABLISH**
22 **PROCESS FOR REVIEW OF PROFESSIONAL EXPENSES MOVING FORWARD**

23 Barbara D. Richardson, Commissioner of Insurance (the “Commissioner”), in her capacity as
24 Permanent Receiver (“Receiver”) of Physicians Indemnity Risk Retention Group, Inc., (“PIRRG” or the
25 “Company”), hereby submits this Motion to approve professional rates and expenses and to establish a
26 process and procedure for the payment of professional services going forward (the “Motion”).

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1 This Motion is made and based the following memorandum of points and authorities, the papers
2 and pleadings on file herein, and any argument of counsel at the time of any hearing on this Motion.

3 Dated this 21st day of June, 2022.

4 **GREENBERG TRAURIG, LLP**

5 */s/ Kara B. Hendricks*

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12 **MEMORANDUM OF POINTS & AUTHORITIES**

13 **I. INTRODUCTION**

14 By and through the subject Motion, Commissioner, as the Permanent Receiver of PIRRG, and
15 Regulatory Services Group (“RSG”), the Special Deputy Receiver (“SDR”)¹ of PIRRG, seek the
16 approval of professional fees and rates and seek to establish a process and procedure by which invoices
17 for professional services can be paid as contemplated by NRS 696B.270 with invoices being included
18 alongside the required quarterly status reports for the receivership.

19 **II. RELEVANT FACTUAL BACKGROUND**

20 PIRRG was an incorporated association formed as a captive insurance company organized under
21 the insurance laws of the State of Nevada and the Liability Risk Retention Act of 1986. On March 12,
22 2020, the Commissioner petitioned this Court pursuant to NRS 696B.250 to seek her appointment as
23 Receiver of PIRRG for the purpose of its rehabilitation, conservation or liquidation, and to grant
24 permanent injunction and other relief authorized by NRS Chapter 696B. On March 19, 2020, this
25 Court granted injunctive relief and appointed the Commissioner as Temporary Receiver (“Temporary

26 _____
27 ¹ On April 2, 2020 the Nevada Insurance Commissioner in her court-appointed capacity as Temporary
28 Receiver of PIRRG retained the services of RSG to act as the SDR for PIRRG. The SDR is vested with all the
rights, duties, and authority of the Receiver, subject to the Commissioner’s supervision as Receiver and the
Court.

1 Receivership Order”). After a series of delays, on March 29, 2022, this Court entered an Order of
2 Permanent Receivership (“Permanent Receivership Order”) and an Order Granting Motion for
3 Liquidation (“Liquidation Order”).

4 During the pendency of this proceeding, administrative expenses have been incurred. This
5 includes services provided to PIRRG by Strategic Risk Solutions (“SRS”), an entity that served as the
6 captive manager for PIRRG and continued to work with the SDR after entry of the Temporary
7 Receivership Order. SRS was, among other things, responsible for preparing and filing financial
8 statements on behalf of the company.² Additionally, certain members of PIRRG Staff that had
9 institutional knowledge regarding PIRRG were retained to assist the Temporary Receiver with the
10 process of discontinuing non-essential services and vendors, and assisted in the resolution, transfer and
11 closure of the Florida office and operations. Additionally, fees were incurred by the SDR and Greenberg
12 Traurig, LLP, who provided legal services to the SDR.

13 Prior to the filing of this Motion, on August 4, 2020, a Motion for Order Approving Expenses of
14 Temporary Receivership was filed and fully briefed but has yet to be ruled on by this Court.³ Therein,
15 certain invoices for the SDR were submitted for review and approval. Subsequently, the Receiver has
16 submitted with the filing of quarterly status reports various financial statements and expense reports.
17 With a Liquidation Order and Permanent Receivership Order now in place, the SDR seeks court
18 approval of professional fees and rates incurred prior to the permanent receivership order and seeks to
19 establish a process and procedure by which invoices for professional services can be paid as
20 contemplated by NRS 696B.270 with invoices being included alongside the required quarterly status
21 reports for the receivership.

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27 ² SRS resigned from this role effective April 2022.

28 ³ Concurrent with the filing of this Motion, a request for submission of the Motion to Approve Expenses was filed.

1 **III. LEGAL ANALYSIS**

2 As this Court is aware, Chapter 696 of the Nevada Revised Statutes provides a framework for
3 receivership actions involving delinquent insurers such as PIRRG. Included therein are provisions
4 governing the appointment of the SDR and the payment of funds as deemed necessary by the same.

5 NRS 696B.290(6) provides that in connection with delinquent proceedings, the Commissioner
6 can appoint a special deputy and may employ counsel, clerks and assistants as the Commissioner deems
7 necessary and that the compensation of the special deputy receiver, counsel, clerks or assistants “shall
8 be fixed by the receiver.” Although NRS 696B.290(6) does not specifically require court approval for
9 such fees, out of an abundance of caution, the Receiver is filing with the Court documents that support
10 the administrative services rendered prior to the Permanent Receivership Order from SRS and
11 employees of PIRRG that continued to provide services during the temporary receivership period.
12 Additionally, the SDR is seeking approval of its rates and fees as well as the rates and fees of its counsel,
13 Greenberg Traurig, LLP, as part of this Motion.⁴ Furthermore, to facilitate a smooth process for
14 payments going forward, the Receiver requests that invoices for services be submitted with quarterly
15 reports for in camera review after approval for payment has been received by the Commissioner in her
16 capacity as Receiver.⁵ Indeed, NRS 696B.290(7) provides a mechanism for Court oversight as the

17 ⁴ NRS 696B.255(1) has similar language to NRS 696B.290(6) regarding the appointment of a special
18 deputy receiver and other persons and specifies that the compensation of such must be fixed by the Commissioner
with the approval of the court, and paid out of the money or other assets of the insurer.

19 ⁵ Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made
20 part of a public filing). In this regard, courts have held that the bills of legal counsel and experts may be withheld
21 from legal discovery and are not subject to legal disclosure, as this information may provide indications or context
22 concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc.*
23 *v. Avana Technologies Inc.*, No. 2:13-cv-00929-GMN-PAL, 2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014)
(finding that billing entries were privileged because they reveal a party’s strategy and the nature of services
24 provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or
not fee information revealed counsel’s mental impressions concerning litigation strategy). Other courts that have
addressed this issue have recognized that the “attorney-client privilege embraces attorney time, records and
statements to the extent that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l*
Grp., Inc., 116 F.R.D. 211, 213 (N.D. Cal. 1986).

The *in-camera* review should apply not only to documentation concerning attorney fees, but it also
25 extends to “details of work revealed in [an] expert’s work description [which] would relate to tasks for which she
[or he] was compensated[.]” a situation which is “analogous to protecting attorney-client privileged information
26 contained in counsel’s bills describing work performed.” *See DaVita Healthcare Partners, Inc. v. United States*,
128 Fed. Cl. 584, 592-93 (2016); *see also Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (4th Cir. 1999) (recognizing
27 that “correspondence, bills, ledgers, statements, and time records which also reveal the motive of the client in
seeking representation, litigation strategy, or the specific nature of the services provided, such as researching
28 particular areas of law,” are protected from disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d
127, 129 (9th Cir. 1992)).

1 statute specifies the Receiver is to provide to the Court, at regular intervals, a summary report on the
2 affairs of the receivership. Such reports which are filed on at least a quarterly basis pursuant to NRS
3 696B.290(7) and are subject to Court review and approval:

4 All such reports, together with such additional or special reports as the
5 court may reasonably require, shall be subject to review by the court; and
6 all actions of the receiver therein reported shall be subject to the court's
7 approval, but the court shall not withhold approval or disapprove any such
8 action unless found by the court after a hearing thereon in open court to
9 be unlawful, arbitrary or capricious.

10 *See* NRS 696B.290(7).⁶ Utilizing this process going forward will benefit the PIRRG estate as the
11 streamlined process will avoid additional motion practice, while at the same time provide the Court an
12 opportunity to monitor the proceedings including expenses incurred. Per statute, should the Court have
13 concerns regarding the same, a hearing can be held to determine if the action taken and fees expended
14 were unlawful, arbitrary or capricious. This is a sufficient process of checks and balances and is utilized
15 in other insurance receivership proceedings.

14 **A. Services Rendered**

15 Certain fees were approved by the SDR for entities and/or individuals for services performed
16 that assisted during the temporary receivership which are further detailed below.

17 **1. Strategic Risk Solutions**

18 SRS acted in the capacity of a captive manager for PIRRG beginning in 2017 and continued in
19 that role through April 2022. Duties and responsibilities of SRS during the temporary receivership
20 included general bookkeeping, the preparation and filing of quarterly statements with the National
21 Association of Insurance Commissioners (“NAIC”) and the Nevada Division of Insurance, prepare and

22
23 ⁶ NRS 696B.290(7) provides in pertinent part:

24 *During such receivership, the Commissioner shall file in the court, at regular*
25 *intervals not less frequently than quarterly, the Commissioner's true reports in*
26 *summary form of the insurer's affairs under the receivership, and of progress being*
27 *made in accomplishing the objectives of the receivership. All such reports, together*
28 *with such additional or special reports as the court may reasonably require, shall*
be subject to review by the court; and all actions of the receiver therein reported
shall be subject to the court's approval, but the court shall not withhold approval or
disapprove any such action unless found by the court after a hearing thereon in
open court to be unlawful, arbitrary or capricious.

1 file tax-related submissions, filed or reported additional regulatory requirements for states other than
2 Nevada and processed weekly payroll. In addition to certain out of pocket expenses for software or
3 filing fees, PIRRG paid SRS a monthly fee of \$10,000 for services rendered. The amount paid to SRS
4 during temporary receivership totaled \$229,431 as further detailed in **Exhibit A** (SRS Invoices) and
5 **Exhibit B** (PIRRG Operating Expenses from 04/01/2020-03/31/2022).

6 **2. PIRRG Staff**

7 The PIRRG Staff retained subsequent to the entry of the Temporary Receivership Order in March
8 of 2020 were comprised of two full time contract employees and a part-time clerical/office manager
9 paid on an hourly basis. Kristen Kent and Steve Adler performed the President and CEO capacities
10 respectively and possessed the institutional knowledge to assist and complete the transfer of the majority
11 of the in-force book of business of PIRRG in 2020 to a new well-capitalized medical malpractice insurer.
12 In addition, all staff members received numerous inquiries and communicated the circumstance to the
13 various members and constituents of the Company. The PIRRG Staff assisted the SDR in initiating
14 steps to reduce and/or eliminate all of PIRRG's non-essential services and vendors and ultimately
15 assisted in the resolution, transfer and closure of the Florida office and operations. Mr. Adler was also
16 retained through his third-party administration firm Melsar to act in the capacity of a claims and
17 litigation manager and assisted in the management of loss reserves on all open or potentially adverse
18 claims. The SDR coordinated the final closure of the Florida operations and transferred or otherwise
19 resolved all remaining assets and data retention shortly after the entry of the Permanent Receivership
20 Order and the Liquidation Order.

21 For their services rendered, the SDR honored existing payroll arrangements through March of
22 2022 with Dr. Kent being paid a gross salary of \$3,828 a week; Mr. Adler being paid a gross salary of
23 \$3,436 a week; and part-time staff paid approximately \$20 an hour. All PIRRG Staff were terminated
24 as of March 2022, with only the part-time employee retained on a short-term contract at \$75 an hour to
25 assist on an "as needed basis" to address any final issues local to Florida. The amount paid to PIRRG
26 Staff during temporary receivership totaled \$800,030 and was comprised of \$394,370 paid to Dr. Kent,
27 \$353,967 paid for services provided by Mr. Adler/Melsar and \$51,693 for all other clerical staff.

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1 **3. Regulatory Services Group**

2 As referenced above, RSG was appointed by the Commissioner to serve as the SDR during both
3 the Temporary and Permanent Receivership. RSG’s rates for services are set forth in **Exhibit C**.
4 Additionally, fees and expenses incurred by the SDR for the period of April 2020 through March
5 2022 and paid to RSG totaled \$214,793 as set forth in **Exhibit D, submitted for in camera review**
6 (SDR fees).

7 **4. Greenberg Traurig, LLP**

8 Greenberg Traurig, LLP (“GT”) was brought into this matter in June of 2021 to provide services
9 to the Receiver and SDR including assistance drafting briefs and the handling of the Show Cause
10 Hearing held in December 2021 and January 2022. Going forward, GT will work closely with the SDR
11 and assist as needed with the handling of PIRRG claims, asset recovery, and provide other legal
12 consultation services as requested. GT’s Rates as approved by the Commissioner were attached to the
13 Third Status Report filed on August 19, 2021 and are included herein as **Exhibit E**. Additionally, fees
14 and expenses incurred by and paid to GT for July 2021 through March 2022 as approved by the
15 Commissioner totaled \$152,735 as set forth in **Exhibit F, submitted for in camera review**.

16 **B. Review and Approval of Expenses for Services Moving Forward**

17 This has not been a typical receivership proceeding due to delays that were incurred
18 prior to the entry of the Permanent Receivership Order and the Liquidation Order.
19 Accordingly, out of an abundance of caution, the Receiver requests approval of pre-receivership
20 expenses, approval of rates for the SDR and GT, who will be providing services as part of the liquidation
21 and ongoing receivership proceedings, and seeks to establish a process for the submittal and review of
22 invoices and expenses moving forward. Notably, the rates of all professional services (including the
23 SDR) herein have been approved by the Commissioner.

24 Going forward, it is requested that payments be made for administrative expenses consistent with
25 the approved fees and rates and that paid invoices be included alongside the required quarterly status
26 reports submitted to this Court. Submitting such invoices with quarterly reports is consistent
27 with the approval process utilized in other insurance receivership matters including the following cases
28 filed in the Eighth Judicial District court in and for Clark County, Case No. A-15-725244-C, Department

1 No. 1, and Case No. A-19-787325-B, Department No. 27 and A-19-791409-C, Department 16. In so
2 doing, the Court can monitor payments made to approved service providers and service providers will
3 be timely paid.

4 **IV. CONCLUSION**

5 Based on the foregoing, the Commissioner respectfully requests approval of fees and rates set
6 forth herein and a Court Order that specifies subsequent payments can be made without preapproval by
7 the Court so long as invoices are submitted to the Court for an in-camera review on at least a quarterly
8 basis.

9 **AFFIRMATION**

10 (PURSUANT TO NRS 239B.030)

11 The undersigned does hereby affirm that the preceding document does not contain any personal
12 information.

13 DATED this 21st day of June, 2022.

14 **GREENBERG TRAURIG, LLP**

15 */s/ Kara B. Hendricks*

16

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EXHIBIT A

SRS Invoices

SRS Invoice Number	SRS Invoice Amt	Pymt/Check Number	Amount Paid	PIRRG Check Date	SRS Pymt Date Posted
INV #20-6096	\$ 31,200.00	pymt #6503	\$ 10,000.00	4/29/2020	5/8/2020
INV #20-6119	\$ 10,700.00	pymt #6507	\$ 10,700.00	5/7/2020	5/27/2020
INV #20-6121	\$ 2,225.00	pymt #6530	\$ 10,000.00	6/17/2020	6/29/2020
INV #20-6181	\$ 31,200.00	pymt #6542	\$ 10,000.00	7/8/2020	7/20/2020
INV #20-6182	\$ 6,160.00	pymt #6551	\$ 3,355.00	7/29/2020	8/18/2020
INV #20-6187	\$ 3,355.00	pymt #6548	\$ 1,200.00	7/29/2020	8/18/2020
INV #20-6227	\$ 34,419.19	pymt #6564	\$ 10,000.00	9/3/2020	9/21/2020
INV #20-6258	\$ 2,690.00	pymt #6577	\$ 10,000.00	11/5/2020	12/2/2020
INV #20-6039	\$ 31,200.00	pymt #6580	\$ 10,000.00	11/11/2020	12/2/2020
		pymt #6591	\$ 10,000.00	12/16/2020	1/4/2021
		pymt #6600	\$ 10,000.00	1/15/2021	2/8/2021
INV #21-6109	\$ 31,200.00	pymt #6611	\$ 6,694.19	3/4/2021	3/22/2021
		pymt #6620	\$ 10,000.00	3/22/2021	4/5/2021
		pymt #6624	\$ 10,000.00	3/31/2021	4/19/2021
		pymt #6631	\$ 10,000.00	4/29/2021	5/24/2021
		pymt #6637	\$ 11,200.00	6/9/2021	6/28/2021
INV #21-6178	\$ 31,200.00	pymt #6643	\$ 10,000.00	7/1/2021	7/27/2021
INV #21-6207	\$ 3,040.00	pymt #6647	\$ 3,040.00	7/22/2021	8/9/2021
		pymt #6651	\$ 10,000.00	8/11/2021	8/30/2021
INV #21-6251	\$ 34,441.64	pymt #6657	\$ 10,000.00	10/6/2021	11/3/2021
INV #22-6042	\$ 31,200.00	pymt #6668	\$ 10,000.00	12/1/2021	12/20/2021
		pymt #6675	\$ 10,000.00	2/2/2022	2/14/2022
INV #22-6147	\$ 3,241.64	pymt #6676	\$ 13,241.64	2/23/2022	3/14/2022
		pymt via wire on 4/13/2022	\$ 20,000.00		
	\$ 287,472.47		\$ 229,430.83		

EXHIBIT B
PIRRG Operating Expenses

Physicians Indemnity Risk Retention Group, Inc.
Operating Expenses
04/01/2020 - 03/31/2022

Operating Expenses	04/01/2020 to 12/31/2020	01/01/2021 to 12/31/2021	01/01/2022 to 03/31/2022	ITD Expense TOTALS (04-01-2020 TO 03-31-2022)
Payroll and Fees	330,068	388,921	81,041	800,030
Payroll Taxes	2,556	912		3,468
Employee Benefits	5,024	(4,603)		421
Accounting and Professional Fees	75,943	41,242		117,185
*Captive Management Fees	85,255	100,934	43,242	229,431
Regulatory Services Group Expenses	123,726	59,816	31,251	214,793
Bank Fees	14,777	8,776		23,553
Insurance - Employees	1,984	0		1,984
Insurance - Corporate	2,225	902		3,127
Legal Fees		48,083	104,652	152,735
License and Permits	2,623	3,378		6,001
Office Expenses	19,721	30,210	7,256	57,187
Software Expense	219	3,242		3,461
Travel and Meals	0	4,320	6,718	11,038
Miscellaneous	144	0	295	439
Total Operating Expenses	664,265	353,598	274,454	1,624,853

*Captive Management Fees include \$20,000 wire transfer payment made in April 2022

EXHIBIT C

Regulatory Services Group Rates

REGULATORY SERVICES GROUP RATES FOR PIRRG RECEIVERSHIP

Client: Receiver of Physicians Risk Retention Group

Case No: CV20-00496

RSG	Blended Hourly Rate for this Matter
Special Deputy & Staff	\$250

*Rates for RSG are a blended rate that incorporates both discounted senior professional staff's costs with administrative and clerical staff costs to derive a single rate for the assignment. At the time of the engagement (April 2020) RSG's blended cost for staff was \$250 an hour and remains at that blended rate.

EXHIBIT E
Greenberg Traurig Rates

Physicians Indemnity Risk Retention Group, Inc.
CV20-00496

GREENBERG TRAURIG, LLP
SUMMARY OF AGREED UPON HOURLY RATES

<u>Name</u>	<u>Rate Per Hour (2021)</u>
Mark Ferrario	\$575
Kara Hendricks	\$475
Tami Cowden	\$450
Jerrell Berrios	\$300
Megan Sheffield (Paralegal)	\$190