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11 IN THE SECOND JUDICIAL DISTRICT COURT OF
12 THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

13 STATE OF NEVADA, EX REL.
14 COMMISSIONER OF INSURANCE, IN HER
15 OFFICIAL CAPACITY AS STATUTORY
16 RECEIVER FOR DELINQUENT DOMESTIC
17 INSURER,

18 Petitioner,

19 vs.

20 PHYSICIANS INDEMNITY RISK
21 RETENTION GROUP, INC., a Nevada
22 Domiciled Association Captive Insurance
23 Company,

24 Respondent.

Case No. CV20-00496

Dept. No. 1

SEVENTH STATUS REPORT

25 COME NOW, Barbara D. Richardson, Commissioner of Insurance (the “Commissioner”) for the
26 State of Nevada in her capacity as Permanent Receiver of Physicians Indemnity Risk Retention Group,
27 Inc., (“PIRRG” or the “Company”), and Regulatory Services Group (“RSG”), the Special Deputy
28 Receiver (“SDR”) of PIRRG, and file this Seventh Status Report in the above-captioned receivership.

I. INTRODUCTION AND HISTORICAL BACKGROUND

PIRRG was an incorporated association formed as a captive insurance company organized under the insurance laws of the State of Nevada and the Liability Risk Retention Act of 1986. In accordance

1 with Chapter 694C of the Nevada Revised Statutes (NRS), PIRRG operated as a risk retention group as
2 defined by NRS 694C.141. PIRRG was domiciled in the State of Nevada and received its initial
3 Certificate of 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 retention group,
5 PIRRG wrote professional liability insurance to physicians and their medical groups under claims-
6 made indemnity policies.

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

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

25 On March 12, 2020, the Commissioner petitioned this Court pursuant to NRS 696B.250 to seek
26 her appointment as Receiver of PIRRG for the purpose of its rehabilitation, conservation or liquidation,

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

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

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

15 On August 1, 2022, this Court entered an Order establishing the claims filing procedure in this
16 matter and setting the claims filing deadline for December 1, 2022.

17 **II. RECEIVERSHIP ADMINISTRATION**

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

19 As referenced above, a claims filing deadline has been set in this matter for December 1, 2022.
20 In furtherance of the same, on August 9, 2022 the SDR had prepared and mailed 1,069 notices to all
21 known members, insureds, claimants, vendors, employees, investors and state/regulatory agencies who
22 may have an interest in PIRRG. The SDR will continue to provide additional notices and where
23 appropriate POC forms to any interested parties identified in the future. The SDR has also made
24 arrangements in accordance with the court’s recent order to publish notice of the liquidation proceeding
25 and POC deadline in three newspaper circulations. The publications are set to run on August 24 and 31,
26 2022.

1 During this reporting period, continuing efforts have been made to obtain PIRRG's files from its
2 former counsel and the SDR is reviewing and evaluating the materials as they are received. The SDR's
3 initial review included materials provided by PIRRG's former counsel related to the claims that were
4 asserted against two AON entities in Washoe County, Case No. CV-19-01563.¹ The SDR continues to
5 review and evaluate information/documents in relation to the remaining claims asserted against AON to
6 determine the viability of the case going forward.

7 Additionally, the SDR has scheduled meetings with representatives from PIRRG's London
8 Market reinsurers to further evaluate the potential for resolution of claims asserted by PIRRG in a number
9 of arbitrations as well as discuss payment of current paid losses and expenses due PIRRG.

10 **B. PIRRG Policies**

11 As previously reported, as of December 31, 2021, all but eleven PIRRG policies (all involving
12 tail coverage risk) were transferred to new insurers or expired on their own terms. As a result of the
13 Permanent Receivership Order, all primary in-force malpractice insurance has now lapsed.

14 **C. Policyholder Related Claims**

15 As of June 30, 2022, PIRRG reported \$3,539,825 in estimated gross policy liability² with 34
16 open claims, all of which fall under some form of litigation or pre-litigation status. Notice of the
17 PIRRG temporary receivership injunction was provided to all active defense counsel for PIRRG and
18 the SDR sought to gain a stay in all active proceedings against PIRRG insureds. PIRRG's open claims
19 are not covered by any insurance guaranty statutes but the reciprocal has a reinsurance program in place
20 that may serve to pay a portion of any claims exposure or other claim-related obligations. The Special
21 Deputy Receiver has provided periodic updates to policyholder defense counsel about the status of the
22 receivership and any case developments. Additionally, the SDR has posted copies of the Permanent
23

24 ¹ On August 8, 2019, PIRRG filed a lawsuit against AON Insurance Management ("AIM") and AON Risk Services
25 of Florida ("ARS") in Washoe County, Nevada, Case No. CV-19-01563, alleging various causes of action claiming
26 that the Defendants placed "illusory" reinsurance treaties with the Company that did not provide for a true risk
27 transfer for the years 2011 through 2017.

28 ² These numbers reflect adjustments to the previously reported policy liability based on netting reinsurance and
eliminating previously reported unearned premium.

1 Receivership Order and Liquidation Order as well as the August 1, 2022 order setting the proof of claims
2 deadline on its website.

3 The SDR has taken steps to commence the proof of claim process in accordance with this Court's
4 August 1, 2022 Order and Nevada's distribution priority statutes thereby seeking to determine and pay
5 approved claims on an equitable basis subject to the limitations on available PIRRG assets. And, as
6 referenced above, has prepared and mailed 1,069 claim notices to all known members, insureds,
7 claimants, vendors, employees, investors and state/regulatory agencies who may have an interest in
8 PIRRG.

9 **D. Records and Asset Control**

10 The Special Deputy Receiver has control of all known PIRRG bank accounts and treasury
11 accounts.

12 The SDR has essentially gained control of PIRRG's books and records, both tangible and
13 electronic. The majority of PIRRG's records are maintained in electronic format at the offices of the Special
14 Deputy Receiver in San Francisco, California. Additionally, the SDR has also received the full complement
15 of PIRRG's records held by its captive manager Strategic Risk Solutions. As part of the recent closure
16 of PIRRG's Florida office, the SDR obtained a copy of the policy administration system and
17 records as well as all open claim and claim related hardcopy files in the custody and possession of
18 Steve Adler, PIRRG's former CEO, and/or located at the offices of Melsar Risk Management Services
19 ("Melsar"). In addition to the claim files held by Mr. Adler and Melsar, there are various case files
20 in the respective offices of defense counsel representing PIRRG insureds. The SDR has now
21 received various legal files associated with the pending reinsurance arbitrations and the case against
22 AON from the Leverty & Associates firm in Reno, Nevada.

23 Pending a resolution of these matters, the Special Deputy Receiver will prepare the loss and
24 loss adjustment expense data for PIRRG losses paid to date for submission to the London Market in
25 accordance with the terms of the reinsurance treaty.

26 //

1 **E. Financial Analysis**

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 June 30, 2022, PIRRG’s liabilities exceed its assets by \$3,330,693 as
6 PIRRG has reported assets of \$3,247,871 and liabilities of \$6,578,564.³ PIRRG’s current cash and
7 short-term investments as of June 30, 2022, total \$195,677 which is comprised of \$15,174 in cash or cash
8 equivalents in their Wells Fargo operating account and a PIRRG Pool balance of \$180,503.

9 Additionally, for the period ending June 30, 2022, PIRRG reported a reinsurance asset of
10 approximately \$2,545,436 due from the risk retention group’s reinsurance partners in the London
11 Markets on paid loss and LAE. This estimated recovery will be a topic of discussion in late August when
12 the SDR meets with the London Market reinsurers to discuss resolution of the pending arbitrations, any
13 amounts due PIRRG now and the resolution to the entire program.⁴

14 **F. Third-Party Support and Receivership Expenses.**

15 As previously reported, the Receiver has engaged the law firm of Greenberg Traurig LLP
16 (“Greenberg Traurig”), as counsel in this receivership matter. Additionally, the SDR continues to rely
17 on a part-time hourly contractor (former part-time employee) located in north Florida on an as-needed
18 basis.

19 On August 1, 2022, the Court entered an order approving professional rates and expenses and
20 establishing a process for the review of professional expenses moving forward. In furtherance of the
21 same, attached hereto as **Exhibit B** is an income statement for the period of April 1, 2022 through June
22 30,200 which all summarizes expenses for the reporting period as well as an operating expense summary.

23
24
25 ³ Attached hereto as **Exhibit A**, is a copy of PIRRG’s Liquidation Balance Sheet as of June 30, 2022.

26 ⁴ The SDR continues to provide updated financial data to the reinsurers and remains in periodic contact with
27 counsel for the reinsurers for the purpose of preserving a productive rapport and posture to seek an efficient
28 resolution to the receivable obligation. Counsel for the London Market reinsurers has committed to an initial
meeting at the end of August to seek an equitable resolution to the PIRRG reinsurance program.

1 Submitted under seal for in camera review⁵ are **Exhibit C** and **Exhibit D** which are the billing entries
2 associated payments made during the reporting period.⁶

3 **G. Ongoing Priorities**

4 With the entry of the Permanent Receivership Order as well as the court’s August 1, 2022 Order,
5 the SDR has commenced a proof of claim process to determine the total estate liability. Further, the SDR
6 will work with the London Market reinsurers to address the pending arbitrations, seek payment of
7 amounts due and will work to determine the prospect of resolving the entire reinsurance program. Upon
8 recovery of all known assets and a final determination of the estate’s liability the SDR will ultimately
9 seek court authority to release a distribution of estate assets to approved priority claimants.

10 //

11
12
13 ⁵ The *in camera* materials provided in **Exhibit C** and **Exhibit D**, are being submitted under seal and reflect paid
14 invoices. Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to
15 being made part of a public filing). In this regard, courts have held that the bills of legal counsel and
16 experts may be withheld from legal discovery and are not subject to legal disclosure, as this information
17 may provide indications or context concerning potential litigation strategy and the nature of the expert
18 services being provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-
19 PAL, 2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged
20 because they reveal a party’s strategy and the nature of services provided); *Fed. Sav. & Loan Ins. Corp.*
21 *v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not fee information revealed
22 counsel’s mental impressions concerning litigation strategy). Other courts that have addressed this issue
23 have recognized that the “attorney-client privilege embraces attorney time, records and statements to the
24 extent that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l Grp.,*
25 *Inc.*, 116 F.R.D. 211, 213 (N.D. Cal. 1986).

26 The *in-camera* review should apply not only to documentation concerning attorney fees, but it
27 also extends to “details of work revealed in [an] expert’s work description [which] would relate to tasks
28 for which she [or he] was compensated[,]” a situation which is “analogous to protecting attorney-client
privileged information 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 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 particular areas of law,” are protected from
disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th Cir. 1992)).

⁶ The fees requested herein for RSG are for the April, May and June 2022. The fees requested for Greenberg
Traurig are for September 2021, February 2022 and April 2022. These invoices were previously submitted directly
to the Commissioner for approval and were paid during the reporting period. Greenberg Traurig’s invoices for
May through July 2022 are awaiting approval and will be included in a subsequent status report.

1 **CONCLUSION**

2 In compliance with NRS 696B.290(7), the SDR submits the aforementioned report and
3 respectfully requests that this Court approve this status report and the actions of the Receiver.

4 DATED: August 19, 2022.

5 Respectfully submitted:

6 Barbara D. Richardson, Commissioner of Insurance
7 of the State of Nevada, in her Official Capacity as
8 Statutory Receiver of Delinquent Domestic Insurers

9 By: /s/ Joe Holloway
10 Joe Holloway
11 Temporary Deputy Receiver

12 Respectfully submitted:

13 By: /s/ Kara B. Hendricks
14 MARK E. FERRARIO, Bar No. 1625
15 KARA B. HENDRICKS, Bar No. 7743
16 GREENBERG TRAUIG, LLP
17 10845 Griffith Peak Drive, Suite 600
18 Las Vegas, Nevada 89135

19 *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: August 19, 2022.

By: /s/ Kara B. Hendricks
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KARA B. HENDRICKS, Bar No. 7743
GREENBERG TRAURIG, LLP
10845 Griffith Peak Drive, Suite 600
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 19th day of
3 August 2022, I filed the foregoing *Seventh Status Report* via this Court’s electronic filing system.
4 Parties 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.
7 832 Willow Street
8 Reno, Nevada 89502
9 gene@levertylaw.com

10 */s/ Andrea Lee Rosehill* _____

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B	PIRRG’s Q-2 Income & Expenses	2
C	SGR’s Invoices – <i>filed under seal for in camera review</i>	50
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EXHIBIT A
PIRRG's Q-2 Liquidation Balance Sheet

Physicians Indemnity Risk Retention Group, Inc
Liquidation Balance Sheet
6/30/2022

ASSETS

Cash and Short Term Investments		\$	195,677
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			3,247,871

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			<u>(3,330,693)</u>
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY		\$	<u><u>3,247,871</u></u>

EXHIBIT B
PIRRG's Q-2 Income and Expenses

Physicians Indemnity Risk Retention Group, Inc.
Income Statement
4/1/2022 - 6/30/2022

INCOME

Investment Income 500

TOTAL INCOME 500

EXPENSES

Regulatory Services Group Fees 46,960

Legal Fees 30,231

Consulting 1,875

Office Expense 1,730

Travel (1,762)

Delivery Expense

Postage 23

TOTAL EXPENSES 79,057

NET LOSS FOR THE PERIOD (78,557)

Physicians Indemnity Risk Retention Group, Inc.

Operating Expenses

04/01/2020 - 06/30/2022

Operating Expenses	01/01/2022 to 03/31/2022	04/01/2022 to 06/30/2022	ITD Expense TOTALS (04-01-2020 TO 06-30-2022)
Payroll and Fees	81,041		800,030
Payroll Taxes			3,468
Employee Benefits			421
Accounting and Professional Fees		1,875	119,060
*Captive Management Fees	43,242		229,431
Regulatory Services Group Expenses	31,251	46,960	261,754
Bank Fees			23,553
Insurance - Employees			1,984
Insurance - Corporate			3,127
Legal Fees	104,652	30,231	182,966
License and Permits			6,001
Office Expenses	7,256	1,730	58,917
Software Expense			3,461
Travel and Meals	6,718	(1,762)	9,277
Miscellaneous	295	23	462
Total Operating Expenses	274,454	79,058	1,703,911

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