

1 MARK E. FERRARIO, Bar No. 1625
2 KARA B. HENDRICKS, Bar No. 7743
3 GREENBERG TRAUIG, LLP
4 10845 Griffith Peak Drive, Suite 600
5 Las Vegas, Nevada 89135
6 Telephone: (702) 792-377333
7 Facsimile: (702) 792-9002
8 Email: ferrariom@gtlaw.com
9 hendricksk@gtlaw.com

10 *Attorney for Petitioner*

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

**MOTION FOR GOOD FAITH
SETTLEMENT**

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, by and through the undersigned counsel of record, hereby submit this
Motion for Good Faith Settlement pursuant NRS 17.245.

//

//

1 This Motion is based upon the following Memorandum of Points and Authorities, the papers and
2 pleadings on file, and any oral arguments this Court may entertain.

3 DATED this 21st day of December, 2022.

4 **GREENBERG TRAURIG, LLP**

5
6 /s/ Kara B. Hendricks
7 MARK E. FERRARIO, Bar No. 1625
8 KARA B. HENDRICKS, Bar No. 7743
9 10845 Griffith Peak Drive, Suite 600
10 Las Vegas, Nevada 89135

11 *Attorneys for Petitioner*

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 A settlement has been reached between PIRRG by and through Regulatory Services Group
15 (“RSG”), the Special Deputy Receiver (“SDR”) of PIRRG and Aspen Insurance UK, Ltd, Underwriting
16 Members of Ascot Syndicate 1414 at Lloyd’s, Underwriting Members of Barbican Syndicate 1955 at
17 Lloyd’s, XL Bermuda LTD (formerly Catlin Insurance Company Ltd.), Underwriting Members of Catlin
18 Syndicate 2003 at Lloyd’s, Underwriting Members of Chaucer Syndicate 1084 at Lloyd’s, Underwriting
19 Members of Faraday Syndicate 435 at Lloyd’s, Underwriting Members of Hiscox Syndicate 33 at
20 Lloyd’s, Underwriting Members of Liberty Syndicate 472 at Lloyd’s, Canopius Managing Agents
21 Limited on Behalf of Syndicate 4444, Underwriting Members of Vibe Syndicate 5648 at Lloyd’s
22 Medical Protective (collectively “Reinsurers”). The “Settling Parties” have memorialized the same in the
23 Commutation, Settlement & Release Agreement (“Agreement”) attached hereto as **Exhibit 1**. A
24 condition of the Agreement for payment is a finding of good faith by the Court and the order being final
25 and any appellate time having run.

26 For the following reasons, the Settling Parties respectfully request this Court grant the instant
27 motion.

1 **II. BACKGROUND & PROCEDURAL HISTORY**

2 PIRRG was an incorporated association formed as a captive insurance company organized under
3 the insurance laws of the State of Nevada and the Liability Risk Retention Act of 1986. In accordance
4 with Chapter 694C of the Nevada Revised Statutes (NRS), PIRRG operated as a risk retention group.
5 As a risk retention group, PIRRG wrote professional liability insurance to physicians and their medical
6 groups under claims-made indemnity policies.

7 In furtherance of the same PIRRG also entered into a number of reinsurance
8 agreements/contracts (the “Contracts”) after retaining the services of AON and a London reinsurance
9 broker.¹ Reinsurance contracts spanned a number years including, as is relevant here 2011-2018.
10 However, in 2014, PIRRG and some of the reinsurers agreed to enter into an agreement to commute all
11 liabilities under the 2011-2013 reinsurance contracts effective July 1, 2014. In so doing an agreement
12 was reached resolving all “respective past, present and future obligations and liabilities, in accordance
13 with the Loss Notice and Settlements section of this Agreement.” The commutation was approved at
14 the time by the Nevada Division of Insurance (“Division”) and in 2014, new reinsurance contracts were
15 entered to cover matters going forward.

16 Unfortunately, PIRRG ran into financial troubles. PIRRG’s December 31, 2018 audited financial
17 statement and Risk Based Capital (RBC) Report, both filed on April 1, 2019, cast genuine doubt upon
18 the company’s ability to operate as a going concern. Thereafter, on July 22, 2019 the Commissioner
19 determined PIRRG was operating in a hazardous financial condition and notified PIRRG of the regulatory
20 impairment. Around this same time there were numerous discussions between PIRRG, the Reinsurers
21 and the Division regarding reinsurance available to the Company and it became clear that there were
22 different interpretations regarding the scope and coverage of the reinsurance purchased by PIRRG.

23 Ultimately, as a result of PIRRG’S financial decay and statutory impairment.. Three proposed
24 Corrective Action Plans were submitted by PIRRG to the Division between May and September of 2019
25 to try and salvage the Company’s operations. However, all such Corrective Action Plans were deemed

26 _____
27 ¹ The reinsurance and slip agreements at issue here are identified in Appendix A to the Agreement in Exhibit 1
28 attached hereto.

1 insufficient to address and resolve the RBC and financial impairment of the risk retention group to the
2 satisfaction of the Commissioner and her regulatory staff. In an attempt to shift blame, PIRRG initiated
3 a lawsuit and various arbitration proceedings against entities that PIRRG deemed responsible for its
4 downfall.

5 As is relevant here, PIRRG initiated arbitration proceedings against a number of reinsurers
6 relating to commutation issues and challenged whether there was risk transfer in the various reinsurance
7 treaties between the parties.² Specifically, on October 18, 2019, PIRRG attempted to initiate arbitration
8 proceeding against various reinsurers and was thereafter advised on November 5, 2019 of defects
9 relating to the same. As a result, revised arbitration notices were sent on November 13, 2019, with
10 respect to certain claims arising under certain of the reinsurance contracts. Although party-appointed
11 arbitrators were identified, umpires for the arbitration panels were never selected due to the filing of the
12 instant action and the appointment on March 19, 2020 of Insurance Commissioner Barbara D.
13 Richardson as the Temporary Receiver of PIRRG.

14 On April 2, 2020 the Temporary Receiver of PIRRG retained the services of RSG to act as the
15 Special Deputy Receiver for PIRRG. RSG was vested with all the rights, duties and authority of the
16 Temporary Receiver, subject to the supervision of the Nevada Insurance Commissioner as Temporary
17 Receiver and of the Court. On March 29, 2022, a Permanent Receivership Order was entered herein.

18 Shortly after the entry of Permanent Receivership Order, the SDR through its reinsurance
19 specialist commenced efforts to evaluate the arbitration claims and sought to negotiate a full resolution
20 of reinsurance issues. In pre-arbitration negotiations held in 2019, excess of loss reinsurers for 2014-
21 2017 offered to settle all disputes and liabilities of the program for \$1,000,000. Although the settlement
22

23 ² The National Association of Insurance Commissioners (“NAIC”) has published materials indicating that
24 “Reinsurance, when properly structured, provides legitimate economic benefits to ceding insurers. Those benefits
25 include managing volatility of underwriting, credit, investment timing and other risks, capital financing through
26 surplus relief, reduced volatility of financial results and increased underwriting capacity... The principles-based
27 GAAP and SAP risk transfer standards require that (a) the reinsurer assumes significant insurance risk
28 (underwriting risk and timing risk) under the reinsured portions of the underlying insurance agreements; and (b) it
is reasonably possible that the reinsurer may realize a significant loss from the transaction.” *See Accounting and
Disclosure for Property and Casualty Reinsurance Contracts* available at
www.naic.org/documents/topics_finite_re_12-pcrsg4B.doc.

1 offer was considered fair and reasonable by Division regulatory staff, PIRRG's management rejected the
2 offer and initiated the multiple arbitration demands referenced above.

3 After review of the available files, discussions with the Reinsurer representatives, RSG reinitiated
4 settlement negotiations. However, due to the underlying coverage dispute and legal expenses incurred
5 by the Reinsurers due to the filing of the arbitration proceedings, they are no longer willing to pay the
6 amount previously offered. However, after a series of counteroffers were exchanged and discussed the
7 Reinsurers agreed to pay \$725,000.

8 Based on its review of relevant documents and files and given the costs and uncertainty
9 associated with arbitration and or further proceedings, the Receiver considers the settlement acceptable
10 and appropriate. Notably, RSG's calculations of amounts due PIRRG under contract terms are less than
11 \$725,000. Indeed, additional losses to PIRRG are not anticipated as the insurance written was considered
12 a claims made contract (losses typically have to be reported within the policy period). Moreover, even
13 if new losses were reported, they would not have an impact on amounts due PIRRG because of the
14 applicable premium adjustment formula that increases premiums due reinsurers by one dollar for every
15 dollar of reported incurred loss, subject to a ceiling (maximum).

16 Here, the proposed Agreement brings additional capital to the estate, resolves the Reinsurance
17 issues, pays recoveries significantly above the current balances due the estate and ultimately ends an
18 expensive and protracted dispute that appears to have a limited probability of a success for an amount in
19 excess of the \$725,000 proposed settlement.

20 **III. GOOD FAITH GOVERNS THE SETTLEMENT REACHED AND ALL EQUITABLE**
21 **INDEMNITY AND CONTRIBUTION CLAIMS SHOULD BE EXTINGUISHED**

22 The Settling Parties entered into this proposed settlement in good faith and court approval is
23 requested to ensure the Reinsurers of a resolution to all liability pursuant to NRS 17.245. The
24 determination whether a settlement was made in good faith is left to the discretion of the trial court based
25 upon all the relevant facts available. *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356, 360, 811 P.2d
26 561, 563 (1991). Good faith determinations are governed by a myriad of factors. *See The Doctors*

1 *Company v. Vincent*, 120 Nev. 644, 98 P.3d 681 (2004); *In re MGM Grand Hotel Fire Litigation*, 570
2 F.Supp. 913 (D. Nev. 1983).

3 In *MGM*, the court recognized five factors that the court may consider in determining whether a
4 settlement was made in good faith:

5
6 [t]he amount paid in settlement, the allocation of the settlement proceeds
7 among plaintiffs, the insurance policy limits of settling defendants, the
8 financial condition of settling defendants, and the existence of collusion,
9 fraud or tortious conduct aimed to injure the interests of non-settling
10 defendants.

11 *See In re MGM*, 570 F. supp. 913, 927. As discussed below, the applicable factors and current
12 circumstances overwhelmingly weigh in favor of a finding of good faith.

13 **A. The Amount of the Settlement is Fair and Will be Allocated to Pay Claims.**

14 The proposed settlement of \$725,000 is fair and reasonable given the reinsurance contracts at
15 issue and the history of this matter. As referenced herein, shortly after the entry of Permanent
16 Receivership Order, the SDR through its reinsurance specialist commenced efforts to evaluate the
17 arbitration claims and sought to negotiate a full resolution of reinsurance issues. In negotiations prior to
18 the Receivership, the Reinsurers offered to settle all disputes and liabilities
19 relating to excess of loss reinsurers for the period of 2014-2017 for \$1,000,000. PIRRG's management
20 rejected the offer despite Division regulatory staff opining it was appropriate. Instead, PIRRG filed
21 multiple arbitration demands on the Reinsurers.

22 After review of the available files, discussions with the Reinsurer representatives, RSG reinitiated
23 settlement negotiations and believes the \$725,000 is fair and reasonable. Notably, due to the underlying
24 coverage dispute, legal expenses incurred by the Reinsurers over the past three years relating to the filing
25 of the arbitration proceedings, they are no longer willing to pay the amount previously offered.
26 Additionally, the Reinsurers continue to dispute the risk transfer analysis originally proffered by PIRRG
27 pre-insolvency and are adamant that the Contracts at issue provided the risk transfer required based on
28 industry standards. Further, the Reinsurers continue to maintain that the 2014 commutation agreement
resolved all potential claims for the years 2011-2013 and thus the time period at issue is narrower than

1 what PIRRG originally argued. Due to these ongoing disputes, and based on the RSG's calculations of
2 what amounts is due PIRRG under contract terms, a resolution is in the best interest of the estate. In
3 furtherance of the same the proposed Agreement was reviewed by counsel for all parties and approved
4 by the Commissioner.

5 The funds received from the settlement will be deposited into the SDR's account and will
6 primarily be utilized to pay claims. Notably, the claims filing deadline for this matter was December 1,
7 2022 and the SDR is beginning the claims review process and will issue notice of claims determinations.³
8 Ultimately, a distribution plan will be presented to the Court for approval with funds utilized and
9 distributed accordingly.

10 **B. Financial Condition of Settling Parties.**

11 The financial condition of the Settling Parties was considered by the SDR in the negotiation
12 process. It would likely have taken months of intense litigation as part of the arbitration proceedings
13 before any collection efforts could have occurred with respect to any ruling favorable to PIRRG against
14 the Reinsurers (assuming such ruling was obtained). While the Reinsurers are by all indications solvent
15 entities, even assuming a ruling favorable to PIRRG occurred, the cost and expenses associated with
16 contested arbitration proceedings was not justified. Balancing the various facts, the SDR determined it
17 to be prudent to collect money with certainty and to reduce expenses as opposed to pursuing an uncertain
18 ruling in arbitration and the time associated with the same.

19 **C. No Existence of Collusion, Fraud, or Tortious Conduct Aimed to Injure the Non-**
20 **Settling Defendants.**

21 There is no collusion whatsoever with the settlement. There is no affiliation whatsoever between
22 the SDR and the Reinsurers, with all being unaffiliated parties that negotiated at arms-length to reach a
23 settlement. Simply put, there is no evidence of collusion, fraud, or tortious conduct aimed to injure any
24 party.

25
26
27 ³ As of November 18, 2022, thirty-one (31) Proof of Claims had been filed with claims asserted totaling over
\$1,727,680.

1 specifies that the district court has original jurisdiction of delinquency proceedings and states that “an
2 appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court
3 pursuant to Section 4 of Article 6 of the Nevada Constitution may be taken from any court granting or
4 refusing rehabilitation, liquidation, conservation or receivership *and from every order in delinquency*
5 *proceedings* having the character of a final order as to the particular portion of the proceedings embraced
6 therein. NRS 696B.190(5) (emphasis added). Accordingly, the Receiver respectfully requests that the
7 Court designate the order requested as a Final Order pursuant to NRS 696B.190(5).

8 **IV. CONCLUSION**

9 The Settling Parties conducted direct settlement negotiations in a good faith attempt to resolve
10 the issues between them. All of the *MGM* factors as well as the overall circumstances of the case support
11 a finding of good faith in this matter. Accordingly, the Settling Parties respectfully request the Court
12 grant this motion and that it be designated as a final appealable order pursuant to NRS 696B.190(5).

13 DATED this 21st day of December, 2022.

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

20 *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: December 21, 2022.

By: /s/ Kara B. Hendricks
MARK E. FERRARIO, Bar No. 1625
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 21st day of
3 December 2022, I filed the foregoing **MOTION FOR GOOD FAITH SETTLEMENT** via this
4 Court's electronic filing system. Parties are registered with this Court's EFS and will be served
5 electronically.

6 Vernon E. ("Gene") Leverty
7 Attorney for Physicians Indemnity Risk Retention Group, Inc.
8 832 Willow Street
9 Reno, Nevada 89502
10 gene@levertylaw.com

11 */s/ Andrea Lee Rosehill*
12 _____
13 *An employee of Greenberg Traurig LLP*

INDEX TO EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit No.	Description	Number of Pages
1	COMMUTATION, SETTLEMENT & RELEASE AGREEMENT	19

EXHIBIT 1
COMMUTATION, SETTLEMENT & RELEASE AGREEMENT

COMMUTATION, SETTLEMENT & RELEASE AGREEMENT

REINSURERS LISTED IN APPENDIX B

Adv.

PHYSICIANS INDEMNITY RISK RETENTION GROUP, INC. IN LIQUIDATION

COMMUTATION, SETTLEMENT & RELEASE AGREEMENT

Contents

RECITALS	1
Article I. Definitions	2
Article II. Consideration	3
Article III. Release by Each Party	4
Article IV. Arm’s Length Transaction	5
Article V. Representations and Warranties	5
Article VI. Court, Permanent Receiver and Special Deputy Receiver Approval and Notice	5
Article VII. Entire Agreement	6
Article VIII. Parties Respective Entities	6
Article IX. Severability	6
Article X. Notices	7
Article XI. Choice of Law	8
Article XII. Construction	9
Article XIII. Non-Waiver	9
Article XIV. Counterparts	9
Article XV. Signatures	9
Appendix A – Reinsurers Subscribing to the Reinsurance Agreements	12
Appendix B – Consideration payable by Reinsurers	18

This Commutation, Settlement & Release ("Agreement") is made as of the ____ day of December, 2022 ("Effective Date"). The parties to this Agreement are Barbara D. Richardson, Commissioner of the Nevada Department of Business and Industry Division of Insurance in her capacity as Permanent Receiver (the "Permanent Receiver") of Physician Indemnity Risk Retention Group, Inc. and all of its predecessors, successors and subsidiaries (hereinafter collectively referred to as "PIRRG"), Regulatory Service Group as Special Deputy Receiver ("RSG" or "Special Deputy") of PIRRG, and each of the reinsurers listed in Appendix B attached to this Agreement ("Reinsurers"). Reinsurers, PIRRG, Permanent Receiver, Special Deputy, and SRG, may be referred to in this Agreement individually as "Party" or collectively as "Parties" depending upon the context.

RECITALS

A. WHEREAS, Reinsurers and PIRRG have entered into various reinsurance slips and reinsurance agreements (the "Contracts") identified in Appendix A attached to this Agreement;

B. WHEREAS, on October 18, 2019 PIRRG attempted to initiate arbitration proceeding against various reinsurers;

C. WHEREAS, on November 5, 2019, PIRRG was advised the purported attempt to initiate arbitration proceeding against various reinsurers was defective;

D. WHEREAS, revised notices were sent on November 13, 2019. with respect to certain claims arising under certain of the Contracts listed in Appendix A ("Arbitrations");

E. WHEREAS, pursuant to the Arbitration provision set forth under each of the Contracts, party-appointed arbitrators were chosen. Umpires for the Panels were never selected prior to the stay of the Arbitrations and no Panels were properly empaneled;

F. WHEREAS, on March 19, 2020 Commissioner Barbara D. Richardson was appointed Temporary Receiver of PIRRG by the District Judge of the Second Judicial District Court of the State of Nevada;

G. WHEREAS, on April 2, 2020 Temporary Receiver of PIRRG retained the services of RSG to act as the Special Deputy Receiver for PIRRG. RSG was vested with all the rights, duties and authority of the Temporary Receiver, subject to the supervision of the Nevada Insurance Commissioner as Temporary Receiver and of the Court;

H. WHEREAS, on March 29, 2022, the Judge of the Second Judicial District Court of the State of Nevada issued an order of Permanent Receivership and Liquidation and appointed the Commissioner Barbara D. Richardson as the Permanent Receiver of PIRRG;

I. WHEREAS, the Parties desire to finally settle and commute all of their rights, privileges, duties, obligations and liabilities including past, present and future and completely release and discharge one another under each of the Contracts contained in Appendix A. For the avoidance

of doubt, regardless whether the rights, privileges, duties, obligations and liabilities arose from the Contracts or some other relationship between the Parties, it is the intent of the Parties to finally fully and completely, dispose of and commute all of their respective rights, privileges, duties, obligations and liabilities whether past, present, future or whether known or unknown and fully and forever release and discharge each Party;

J. WHEREAS, the Parties recognize and understand that, i) based upon current economic projections, a portion of the respective Parties' obligations to each other may become payable in the future rather than at present; ii) that their respective future liabilities and obligations to each other pursuant to the Contracts have been evaluated, but cannot be determined in an amount certain at this time; iii) that a settlement and complete commutation of the Parties' obligations to each other pursuant to the terms of this Agreement, and based upon present calculations of future obligations, will eliminate the uncertainty of contingent liabilities for presently unresolved or unasserted claims; and iv) that such a settlement and commutation represents a compromise of each Parties' respective positions under the Contracts and is in all Parties' best interest;

NOW, THEREFORE, in consideration of the Recitals and the covenants set forth in this Agreement, the Parties intend to be bound on behalf of themselves and each of their Respective Entities:

Article I. Definitions

1. Affiliates shall mean, except as specifically provided in this Agreement, any person or entity that a Party Controls or owns, that Controls or owns a Party or that is under common Control or ownership of a Party. In any event, with respect to Aspen Insurance UK Limited, "Affiliates" or "affiliates" shall mean "subsidiaries and affiliates within the Aspen Group of companies (i.e. Aspen Insurance Holdings Limited and its subsidiaries)".

2. Control shall mean the ownership, directly or indirectly, of shares possessing more than fifty percent (50%) of the voting power of a legal entity, or having the power to control the management or elect a majority of members to the board of directors or equivalent decision-making body of such legal entity, (unless the entity is subject to an insurance regulator that has a different measure for control).

3. Business Day shall mean any day that is not a Saturday, a Sunday or any other day on which commercial banks located in New York, New York are authorized or required by any applicable Law or Governmental Order to be closed.

4. Consideration shall have the meaning set forth in Article II.

5. Contracts shall mean the reinsurance slips and reinsurance agreements identified in Appendix A attached to this Agreement.

6. **Law or Governmental Order** shall mean any decision, ruling, order, requirement, writ, injunction, decree, stipulation, determination, award, binding agreement or judgment issued or entered by or with any Governmental authority.

7. **Liquidation** shall mean the PIRRG Liquidation Order dated March 29, 2022 entered in the Second Judicial District Court of the State of Nevada.

8. **Liquidation Court** shall mean the Second Judicial District Court of the State of Nevada. Notwithstanding, the Parties acknowledge the Nevada Supreme Court has jurisdiction over any appeal from the Liquidation Court.

9. **NV DOI** shall mean the Nevada Department of Business and Industry Division of Insurance.

10. **Permanent Receiver/Temporary Receiver** shall mean Barbara D. Richardson, Commissioner of the Nevada Department of Business and Industry Division of Insurance in her court appointed capacity.

11. **PIRRG** shall mean Physicians Indemnity Risk Retention Group, Inc. a Nevada Domiciled Association Captive Insurance Company In Liquidation.

12. **Reinsurers** shall mean the legal entities listed in Appendixes A and B attached to this Agreement.

13. **Respective Entities** shall mean a Party's predecessors, parents, affiliates, subsidiaries, agents, administrators, underwriting members, managing agents, managers and all officers, directors, employees, shareholders, policyholders, successors and assigns.

14. **RSG** shall mean Regulatory Services Group.

15. **Special Deputy/Special Deputy Receiver** shall mean RSG as Special Deputy Receiver of PIRRG

Article II. Consideration

1. Each Party agrees that, upon all Parties signing this Agreement and upon the filing of the Notice of Entry of the order approving the Motion for Good Faith Settlement by the Liquidation Court (the "Approval Order") and (i) 31 days have expired after the entry of the same and no appeal or petition for certiorari, review, or rehearing is pending, or (ii) if appeal, review, re-argument, or certiorari of the Approval Order has been sought, the Approval Order has been affirmed or the request for review, re-argument, or certiorari has expired, or has been denied, the Approval Order shall have become final and not subject to further appeal in accordance with applicable law ("Final Order"). The Consideration set out in Section 2 of this Article II shall be paid, the Contracts shall be fully and finally commuted and shall terminate and the Arbitrations shall be dismissed.

2. No later than twenty (20) Business Days after there has been entered a Final Order, the Reinsurers shall pay their several allocated shares of \$725,000 as set forth in Appendix B (“Consideration”). The Consideration shall be paid to the party designated in Section 3 of this Article II in immediately available funds (in United States currency) by wire transfer to the account shown below in Section 3 of this Article II.

3. The Reinsurers shall wire the Consideration to:

Union Bank, N.A.
Monterey Park, CA 91755
TRUSF Branch 09569
ATTN: Domestic Custody Trust Department
ABA # 122000496
For Credit to Account #2380013013
Reference: 484 PIRRG
Account Name: CLO/Cash Receipts

4. PIRRG by and through the Permanent Receiver shall accept the sum set forth in this Article II as full and final settlement of all amounts due by Reinsurers to PIRRG. This final settlement shall be a complete satisfaction, final discharge of each of the Reinsurers from any rights, privileges, duties, obligations and liabilities including past, present and future from each of the Contracts contained in Appendix A and any other relationships the reinsurers might have entered into with PIRRG.

Article III. Release by Each Party

1. Upon payment of the Consideration by the Reinsurers each Party, including the Reinsurers, PIRRG, Permanent Receiver and Special Deputy Receiver on behalf of itself and on behalf of its Respective Entities shall, ***with no further action taken or required by any Party***, immediately release and discharge each other and each other’s officers, deputies, directors and shareholders, and its attorneys, agents, administrators, successors and assigns from any and all liabilities, including, but not limited to, all obligations, adjustments, executions, offsets, actions, causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, claims, demands, duties, doings, omissions, costs, expenses and/or losses whatsoever, whether known or unknown, reported or unreported, and whether arising in the past, present or future, which each of them ever had, now have, or hereafter may have, whether grounded in law or equity, in contract or in tort, against the other by reason of any matter whatsoever. To avoid any misunderstandings, it is the intention of the Parties that upon the Reinsurers’ payment of the Consideration this Agreement shall operate as a full and final settlement and complete commutation of any and all past, current and future liabilities to each other under each of the Contracts.

2. Subsequent to the Reinsurers’ payment of Consideration, Reinsurers, PIRRG, Permanent Receiver and Special Deputy Receiver on behalf of itself and each of their Respective

Entities, absolutely and unconditionally covenant, agree and warrant to each other Party that neither Party nor their Respective Entities shall, for any reason whatsoever, demand, claim or file suit or initiate arbitration proceedings against any Party or a Party's Respective Entities in respect of any matters relating to or arising out of any of the Contracts.

3. Additionally, each Party including Reinsurers, PIRRG, Permanent Receiver and Special Deputy Receiver fully understands and expressly waives any rights or benefits any of them may have to unknown claims which may exist at the time of executing this Agreement, including those which may have materially affected this settlement or a Parties decision to enter into this Agreement.

Article IV. Arm's Length Transaction

This Agreement is the product of an arm's length negotiations and its terms have been completely read, fully understood and voluntarily accepted by each Party. Each Party has conducted its own due diligence and is not relying upon any representations of any other Party. Each Party has been represented by counsel of its choice.

Article V. Representations and Warranties

1. Each Party represents and warrants it (a) understands that the Contracts in force between March 1, 2011, and August 1, 2014, contained in Appendix A have been separately fully commuted (the "Past Commutation Agreements") prior to PIRRG's attempt to initiate an Arbitration based upon the Past Commutation Agreements; (b) the Past Commutation Agreements shall remain in force against each of the Parties in accordance with its terms; and (c) it is neither the intent of any of the Parties nor will any Party attempt to dispute the validity of any Past Commutation Agreements.

2. Each Party represents and warrants it understands that the Contracts in force between March 1, 2008, and August 1, 2014, contained in Appendix A have been fully paid by the Reinsurers and no monies are owed.

3. Each reinsurer listed in Appendix B is only responsible for its several share of the Consideration as set forth in Appendix B.

4. Each Party and individual signing on behalf of a Party represents and warrants to each other Party that it is fully authorized to execute and deliver this Agreement.

Article VI. Court, Permanent Receiver and Special Deputy Receiver Approval and Notice

1. Notwithstanding any other provision of this Agreement, each provision of this Agreement is subject to approval by the Liquidation Court after review and approval by the Permanent Receiver, the Special Deputy Receiver and Reinsurers which will be sought via Motion for Good Faith Settlement filed by counsel for the Receiver which will include a request that the

order entered be immediately appealable. In the event any Party does not sign this Agreement, for any reason whatsoever, this Agreement and all of its provisions shall be null and void as to that Party. However, this Agreement, subject to Article 5 Section 3, shall be enforceable against each Party that approves this Agreement. For the avoidance of doubt, should the Liquidation Court refuse to approve this Agreement for any reason whatsoever, this Agreement shall be null and void as to all Parties.

2. Once this Agreement has been signed by each of the Parties agreeing to this Agreement, the Permanent Receiver and the Special Deputy shall immediately seek approval of this Agreement from the Liquidation Court.

Article VII. Entire Agreement

1. This Agreement constitutes the entire agreement between the Parties with respect to the business reinsured pursuant to the Contracts. This Agreement supersedes all prior representations, warranties, prior agreements or understandings between the Parties pertaining to the subject matter of this Agreement.

2. Any change or modification to this Agreement shall be invalid, null and void unless it is in written signed by all of the Parties.

3. This Agreement is intended to finally and fully resolve any and all of the rights and liabilities of the Parties to this Agreement under the Contracts. No Party, on any basis whatsoever shall seek to reopen or set aside this Agreement or the Past Commutation Agreements in force between March 1, 2011, and August 1, 2014 contained in Appendix A.

Article VIII. Parties Respective Entities

The terms of this Agreement and the rights, duties and obligations of the Parties set forth in this Agreement shall inure to the benefit of, and be binding upon each of the Parties and their Respective Entities. The Parties do not intend nor do they grant any third party any benefit from or have any rights concerning this Agreement.

Article IX. Severability

1. Determination that any provision of this Agreement is invalid or unenforceable will not affect or impair the validity or the enforceability of the remaining provisions of this Agreement.

2. Notwithstanding anything in this Agreement to the contrary, this Agreement is intended to settle any claim, disputed or otherwise, between the Parties under the Contracts. This Agreement does not constitute an admission by any Party regarding the enforceability or interpretation of any Contracts, the validity of any amounts sought by any Party under any of the Contracts contained in Appendix A attached hereto this Agreement. This Agreement and any negotiations in connection with it shall not be introduced into evidence in any court or any other

proceeding for any purpose other than in connection with disputes regarding the implementation, interpretation and/or enforcement of this Agreement.

Article X. Notices

1. All notices required under this Agreement shall be as follows:
 - i. Any notice or other communication under or in connection with this Agreement shall only be in writing and shall be delivered personally or sent by first class post/mail (or by air mail if overseas) or by overnight courier service, to the addresses of the Parties as set out in this Article XI. Any Party may specify by notice in writing to the others any other person to whom such notices shall be delivered. Neither Electronic mail nor facsimile shall constitute notice with the exception of Article VI Section 3.
 - ii. In the absence of evidence of earlier receipt, any notice or other communication shall be deemed to have been duly served if:
 - a. Sent by first class post on the second Business Day after posting;
 - b. Sent by overnight courier on the next Business Day after mailing;
 - c. Sent by air mail, five (5) Business Days after posting; and
 - d. If delivered personally, when left during normal business hours at the address set out in Appendix C or any alternative address specified by the receiving Party.
2. All Notices being given by any Party to another Party shall be given as follows:

***REMAINING PORTION OF PAGE
INTENTIONALLY LEFT BLANK***

REINSURERS:

Barry Leigh Weissman
Carlton Fields, LLC
2029 Century Park East
Suite 1200
Los Angeles, California 90267
E-mail: bweissman@carltonfields.com

Kiran Soar
DWF Law
20 Fenchurch Street
London EC3M 3AG
E-mail: Kiran.Soar@dwf.law

BARBARA D. RICHARDSON, COMMISSIONER OF THE NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INSURANCE IN HER CAPACITY AS PERMANENT RECEIVER

Commissioner of The Nevada Department Of Business And Industry Division Of Insurance In Her Capacity As Permanent Receiver
Nevada Department of Business and Industry Division of Insurance
1818 East College Parkway
Suite 103
Carson City, NV 89706

With copy to:
Kara B. Hendricks
Greenberg Traurig, LLP
10845 Griffith Peak Dr., Ste. 600
Las Vegas, NV 89135

REGULATORY SERVICE GROUP AS SPECIAL DEPUTY RECEIVER

Joseph Holloway
Special Deputy Receiver
100 Pine Street, Suite 1200
San Francisco, CA 94111

Article XI. Choice of Law

This Agreement shall be interpreted under and governed by the laws of the State of Nevada without reference to its choice of law rules.

Article XII. Construction

This Agreement will be construed and administered without regard to authorship and without any presumption or rule of construction in favor of either Party. This Agreement is between sophisticated Parties, each of which has reviewed the Agreement and is fully knowledgeable about its terms and conditions.

Article XIII. Non-Waiver

A waiver by either Party of any violation, or the default by the other Party in its adherence to any term of this Agreement, will not constitute a waiver of any other or subsequent violation or default. No prior transaction or dealing between the Parties will establish any custom, usage or precedent waiving or modifying any provision of the Agreement. The failure of either Party to enforce any part of this Agreement will not constitute a waiver of any right to do so.

Article XIV. Counterparts

This Agreement may be signed and exchanged in counterpart by facsimile or email communication. This Agreement as so signed and exchanged will constitute the binding Agreement of the Parties.

Article XV. Signatures

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Commutation and Release Agreement in duplicate as of the Effective Date.:

PHYSICIANS INDEMNITY RISK RETENTION GROUP INC. IN LIQUIDATION

BY: _____ WITNESS: _____
Barbara D. Richardson

TITLE: Commissioner of the Nevada Department of Business and Industry Division of Insurance
in her capacity as Permanent Receiver

REGULATORY SERVICE GROUP AS SPECIAL DEPUTY RECEIVER

BY: _____ WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF ASCOT SYNDICATE 1414 AT LLOYD'S

BY: _____ WITNESS: _____

TITLE: _____

ASPEN INSURANCE UK, LTD

BY: _____

WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF BARBICAN SYNDICATE 1955 AT LLOYD'S

BY: _____

WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF BEAZLEY SYNDICATE 2623 AND 623 AT LLOYD'S

BY: _____

WITNESS: _____

TITLE: _____

XL BERMUDA LTD (FORMERLY CATLIN INSURANCE COMPANY LTD.)

BY: _____

WITNESS: _____

Stephen Smith

TITLE: Heads of Claims, Reinsurance Bermuda

THE UNDERWRITING MEMBERS OF CATLIN SYNDICATE 2003 AT LLOYD'S

BY: _____

WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF CHAUCER SYNDICATE 1084 AT LLOYD'S

BY: _____

WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF FARADAY SYNDICATE 435 AT LLOYD'S

BY: _____

WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF HISCOX SYNDICATE 33 AT LLOYD'S

BY: _____ WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF LIBERTY SYNDICATE 4472 AT LLOYD'S

BY: _____ WITNESS: _____

TITLE: _____

THE MEDICAL PROTECTIVE COMPANY

BY: _____ WITNESS: _____

TITLE: _____

CANOPIUS MANAGING AGENTS LIMITED ON BEHALF OF SYNDICATE 4444

BY: _____ WITNESS: _____

TITLE: _____

THE UNDERWRITING MEMBERS OF VIBE SYNDICATE 5678 AT LLOYD'S

BY: _____ WITNESS: _____

TITLE: _____

Appendix A – Reinsurers Subscribing to the Reinsurance Agreements

Reinsurer	Percentage	Year	Slip	Contract
Aspen Insurance UK, Ltd		2008-03-01 thru 2009-03-01	UMR: B0391HX020090G	U06991508A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's				
The Underwriting Members of Beazley Syndicates 2623 and 623 at Lloyd's				
The Underwriting Members of Catlin Syndicate 2003 at Lloyd's				
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's				
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's				
Total				
Aspen Insurance UK, Ltd		2009-03-01 thru 2010-03-01	UMR: B0391HX020090H	U06991509A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's				
The Underwriting Members of Beazley Syndicates 2623 and 623 at Lloyd's				
The Underwriting Members of Catlin Syndicate 2003 at Lloyd's				
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's				

The Underwriting Members of Barbican Syndicate 1955 at Lloyd's				
Total				
Aspen Insurance UK, Ltd		2010-03-01 thru 2011-03-01	UMR: B0391HX020090I	U06991510A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's				
The Underwriting Members of Beazley Syndicates 2623 and 623 at Lloyd's				
The Underwriting Members of Catlin Syndicate 2003 at Lloyd's				
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's				
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's				
Total				
Aspen Insurance UK, Ltd	32.50%	2011-03-01 thru 2012-03-01	UMR: B0595RE00045811	U06991511A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's	20.00%			
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's	15.00%			
The Underwriting Members of Catlin Syndicate 2003 at Lloyd's	12.50%			
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	15.00%			
Catlin Insurance Company Ltd.	5.00%			
Total	100.00%			
Aspen Insurance UK, Ltd	32.50%	2012-08-01 thru 2013-08-01	UMR: B0595RE00045812	U06991512A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's	20.00%			
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's	15.00%			

The Underwriting Members of Catlin Syndicate 2003 at Lloyd's	12.50%			
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	15.00%			
Catlin Insurance Company Ltd.	5.00%			
Total	100.00%			
Aspen Insurance UK, Ltd	32.50%	2013-08-01 thru 2014-08-01	UMR: B0595RE00045813	U06991513A0D
The Underwriting Members of Faraday Syndicate 435 at Lloyd's	20.00%			
The Underwriting Members of Liberty Syndicate 4472 at Lloyd's	15.00%			
The Underwriting Members of Catlin Syndicate 2003 at Lloyd's	12.50%			
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	15.00%			
Catlin Insurance Company Ltd.	5.00%			
Total	100.00%			
Aspen Insurance UK, Ltd	40.00%	2014-05-01 thru 2015-08-01	UMR: B0595RE00045814	U06991514A0D
The Underwriting Members of Hiscox Syndicate 33 at Lloyd's	30.00%			
The Medical Protective Company	30.00%			
Total	100.00%			
Aspen Insurance UK, Ltd	40.00%	2015-08-01 thru 2016-08-01	UMR: B0595RE00045815	U06991515A0D
The Underwriting Members of Hiscox Syndicate 33 at Lloyd's	30.00%			

The Medical Protective Company	30.00%			
Total	100.00%			
Aspen Insurance UK, Ltd	38.09%	2016-08-01 thru 2017-08-01	UMR: B0595RE00045816	U06991516A0D
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	14.29%			
The Underwriting Members of Chaucer Syndicate 1084 at Lloyd's	14.29%			
The Underwriting Members of Vibe Syndicate 5678 at Lloyd's	14.29%			
Canopus Managing Agents Limited on behalf of Syndicate 4444	14.29%			
The Underwriting Members of Ascot Syndicate 1414 at Lloyd's	4.75%			
Total	100.00%			
Aspen Insurance UK, Ltd	38.09%	2017-08-01 thru 2018-08-01	UMR: B0595RE00045817	U06991517A0D
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	14.29%			
The Underwriting Members of Chaucer Syndicate 1084 at Lloyd's	14.29%			
The Underwriting Members of Vibe Syndicate 5678 at Lloyd's	14.29%			
Canopus Managing Agents Limited on behalf of Syndicate 4444	14.29%			
The Underwriting Members of Ascot Syndicate 1414 at Lloyd's	4.75%			
Total	100.00%			

Appendix B – Consideration payable by Reinsurers

Reinsurer	Percentage of Consideration
Aspen Insurance UK, Ltd	39.14%
The Underwriting Members of Hiscox Syndicate 33 at Lloyd's	16.49%
The Medical Protective Company	16.49%
The Underwriting Members of Barbican Syndicate 1955 at Lloyd's	6.44%
The Underwriting Members of Chaucer Syndicate 1084 at Lloyd's	6.44%
The Underwriting Members of Vibe Syndicate 5678 at Lloyd's	6.44%
Canopus Managing Agents Limited on behalf of Syndicate 4444	6.44%
The Underwriting Members of Ascot Syndicate 1414 at Lloyd's	2.14%
Total	100.00%