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

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

19 Petitioner,

20 vs.

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

25 Respondent.

Case No. CV20-00496

Dept. No. 1

NINTH STATUS REPORT

26 COME NOW, Barbara D. Richardson, Commissioner of Insurance (the “Commissioner”) for the
27 State of Nevada¹ as Permanent Receiver of Physicians Indemnity Risk Retention Group, Inc., (“PIRRG”
28 or the “Company”), and Regulatory Services Group (“RSG”) acting in the capacity of the duly
appointed Special Deputy Receiver (“SDR”) of PIRRG, and file this Ninth Status Report in the above-
captioned receivership.

¹ Barbara D. Richardson resigned from her position as Commissioner of Insurance effective December 30, 2022. Nick Stosic has been named as acting Insurance Commissioner. Pursuant to NRCP 25(d), when a public officer ceases to hold office while an action is pending, “[t]he officer’s successor is automatically substituted as a party.”

1 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

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

10 On July 22, 2019 the Commissioner determined PIRRG was operating in a hazardous
11 financial condition and notified PIRRG of the regulatory impairment. PIRRG submitted three
12 proposed Corrective Action Plans between May and September of 2019, all were reviewed by the
13 Nevada Division of Insurance and thereafter deemed insufficient to address and resolve the RBC and
14 financial impairment of the risk retention group to the satisfaction of the Commissioner and her
15 regulatory staff.

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

22 On March 12, 2020, the Commissioner petitioned this Court pursuant to NRS 696B.250 to seek
23 her appointment as Receiver of PIRRG and thereafter on March 19, 2020, this Court granted injunctive
24 relief and appointed the Commissioner as Temporary Receiver and issued an order, pursuant to NRS
25 696B.250(2) and further directing PIRRG to appear in court and show cause why the Commissioner's
26 petition should not be granted.

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

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

8 On August 1, 2022, this Court entered an Order establishing the claims filing procedure in this
9 matter and setting the claims filing deadline for December 1, 2022 (“Claims Order”).

10 On January 27, 2023 this Court entered an order granting PIRRG’s Motion for Good Faith
11 Settlement approving a commutation agreement between PIRRG and its London based reinsurers.

12 **II. RECEIVERSHIP ADMINISTRATION**

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

14 As referenced above, the claims filing deadline was set in this matter for December 1, 2022. In
15 furtherance of the same, on August 9, 2022 the SDR had prepared and mailed 1,069 notices to all known
16 members, insureds, claimants, vendors, employees, investors and state/regulatory agencies who may
17 have an interest in PIRRG. The SDR continued to provide additional notices and where appropriate
18 provided Proof of Claim (“POC”) forms to interested parties on or before the December 1, 2022 bar-date.
19 As reported in the prior status filing, the SDR has completed, in accordance with the court’s order, and
20 published notice of the permanent receivership and liquidation proceeding as well as the POC deadline
21 in three newspapers specifically the USA Today; the Las Vegas Review-Journal and the Tampa Bay
22 Times.

23 Additionally, the SDR has posted copies of the Permanent Receivership Order and Liquidation
24 Order as well as the August 1, 2022 order setting the proof of claims deadline and the January 27, 2023
25 order granting good faith settlement authority on its website.

26 //

1 **B. PIRRG Policies**

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

5 **C. Policyholder Related Claims**

6 On August 1, 2022, this Court entered an Order establishing the claims filing procedure in this
7 matter and setting the claims filing deadline of December 1, 2022. The SDR mailed 1,069 claim notices
8 to all known members, insureds, claimants, vendors, employees, investors and state/regulatory agencies
9 who may have an interest in PIRRG.

10 The SDR, through his claims office, has commenced the review and determination process for
11 the policy-related POCs received (Nevada priority classes B & C). As of the December 1, 2022 claims
12 bar-date, the SDR received 60 POCs from PIRRG creditors who have asserted claims totaling
13 approximately \$2,890,945. The claims review process is underway and the SDR has identified at least
14 two POC's that would likely be classified as Class B claims, but were submitted as contingent with no
15 monetary amount claimed. Pursuant to NRS 696B.450(1) contingent and unliquidated claims do not
16 share in the distribution unless certain exceptions are met. The SDR intends to contact these claimants
17 in an attempt to obtain additional information to further evaluate the same. The SDR expects to complete
18 the review process for the remaining claims in the next 90 – 120 days.

19 As of December 31, 2022, PIRRG reported \$3,539,825 in estimated gross policy liability².
20 PIRRG's open claims are not covered by any insurance guaranty statutes and the estate will address its
21 policy related liability via the proof of claim process as discussed above. Although there is no
22 guaranteed safety net to pay open claims and approved POCs, the proceeds collected from the settlement
23 agreement reached with the reinsurers will serve to pay a portion of any approved claims or other claim-
24 related obligations.

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

1 \$3,248,137 as PIRRG has reported assets of \$1,357,022 and liabilities of \$4,605,159.³ PIRRG’s current
2 cash and short-term investments as of December 31, 2022, total \$125,264 which is comprised of \$15,183
3 in cash or cash equivalents in their Wells Fargo operating account and a PIRRG Pool balance of \$110,080.
4 With the anticipated settlement with the reinsurers additional funds will soon be available and the estate
5 will focus on determining all timely received Proofs of Claim.

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

7 The Receiver and the SDR continue to work with the law firm of Greenberg
8 Traurig LLP (“Greenberg Traurig”), as estate counsel in this receivership matter. Additionally, the SDR
9 continues to rely on one part-time hourly contractor (former part-time employee) located in north Florida
10 on an as-needed basis.

11 On August 1, 2022, the Court entered an order approving professional rates and expenses and
12 establishing a process for the review of professional expenses moving forward. In furtherance of the
13 same, attached hereto as **Exhibit B** is an income statement for the period of October 1, 2022 through
14 December 31, 2022 which summarizes expenses for the reporting period as well as an operating expense
15 summary. Submitted under seal for in camera review⁴ are **Exhibit C** and **Exhibit D** which are the billing

16 ³ Attached hereto as **Exhibit A**, is a copy of PIRRG’s Liquidation Balance Sheet as of December 31, 2022.
17 Notably, the Balance Sheet includes \$725,000 which is the value the SDR attributes to the Reinsurers and the
18 amount of the settlement which was approved by Court on January 27, 2023.

19 ⁴ The *in camera* materials provided in **Exhibit C** and **Exhibit D**, are being submitted under seal and reflect paid
20 invoices. Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made
21 part of a public filing). In this regard, courts have held that the bills of legal counsel and experts may be withheld
22 from legal discovery and are not subject to legal disclosure, as this information may provide indications or context
23 concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc.*
24 *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
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).

25 The *in-camera* review should apply not only to documentation concerning attorney fees, but it also extends
26 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 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
27 “correspondence, bills, ledgers, statements, and time records which also reveal the motive of the client in seeking

1 entries and associated payments made during the reporting period.⁵

2 **G. Ongoing Priorities**

3 As referenced above, with the entry of the Permanent Receivership and Liquidation Orders, the
4 Claims and Settlement Orders, the SDR is now finalizing the proof of claim review to determine the
5 total estate policyholder related liability. After completion of the proof of claims determination
6 (including the issuance and return of prove up letters) the SDR will ultimately send notices to all creditors
7 advising of their approval or rejection of each timely POC received. Given the limited assets held by
8 the SDR some creditors will receive no assets letters advising them their creditor class will not be
9 considered due to insufficient assets for that priority class of creditor. Upon receipt of the commutation
10 proceeds from the approved reinsurance settlement and a final determination of the estate’s policyholder
11 liability the SDR will ultimately seek court authority to release a distribution of estate assets to approved
12 priority claimants.

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23 representation, litigation strategy, or the specific nature of the services provided, such as researching particular
24 areas of law,” are protected from disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th
Cir. 1992)).

25 ⁵ The fees requested herein for RSG are for the October, November, December 2022. The fees requested for
26 Greenberg Traurig are for August, September, October, November and December 2022. These invoices were
27 previously submitted directly to the Commissioner for approval and were paid during the reporting period. RSG’s
invoices for November through December 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: February 16, 2023.

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

Joe Holloway
Special Deputy Receiver

10 Respectfully submitted:

11 By: /s/ Kara B. Hendricks

12 MARK E. FERRARIO, Bar No. 1625
13 KARA B. HENDRICKS, Bar No. 7743
14 GREENBERG TRAUIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135

15 *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: February 16, 2023.

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 16th day of
3 February 2023, I filed the foregoing *Ninth 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.
7 832 Willow Street
8 Reno, Nevada 89502
9 gene@levertylaw.com

10 */s/ Andrea Lee Rosehill* _____

INDEX TO EXHIBITS

Exhibit No.	Description	Number of Pages
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EXHIBIT A

PIRRG's Q-4 Liquidation Balance Sheet & Notes to Financial Statement

Physicians Indemnity Risk Retention Group, Inc.
 Liquidation Balance Sheet
 12/31/2022

ASSETS

Cash and Short Term Investments		\$	125,264
Net Premiums Receivable - Direct Policies			506,758
Reinsurance Receivable on Paid Loss and LAE, net of allowance for doubtful account	Note 1		<u>725,000</u>

TOTAL ASSETS 1,357,022

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
Ceded Reinsurance Premiums Payable			333,000
Accounts Payable			<u>732,334</u>

TOTAL LIABILITIES 4,605,159

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 (3,248,137)

TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY \$ 1,357,022

Physicians Indemnity Risk Retention Group, Inc.
Notes to Financial Statements
December 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 December 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:

The Liquidator has agreed to a commutation settlement with the London Market reinsurers for a payment of \$725,000 which was approved by the Court on January 27, 2023 and will be funded at the end of February or in early March.

Note 2:

Net reserves for loss and loss adjustment expenses at December 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 determined by the Liquidator.

Note 3:

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

EXHIBIT B

PIRRG's Q-4 Income & Expenses

Physicians Indemnity Risk Retention Group, Inc.
Income Statement
10/1/22 - 12/31/22

INCOME

Investment Income 124.14

TOTAL INCOME 124.14

EXPENSES

Regulatory Services Group Fees 19,125.00

Legal Fees 5,184.20

Payroll and Fees 881.25

Postage 2.28

TOTAL EXPENSES 25,192.73

NET LOSS FOR THE PERIOD (25,068.59)

EXHIBIT C

Compiled Invoices from Regulatory Service Group

CONFIDENTIAL - FILED UNDER SEAL

EXHIBIT D

Compiled Invoices from Greenberg Traurig

**CONFIDENTIAL - FILED UNDER SEAL
PURSUANT TO COURT ORDER**