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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

TENTH STATUS REPORT

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

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¹ Barbara D. Richardson resigned from her position as Commissioner of Insurance effective December 30, 2022. Scott Kipper was named as the new 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 Statues (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. On March 6, 2020 PIRRG submitted an unsigned financial report indicating it was
16 insolvent pursuant to NRS 696B.110. The foregoing facts associated with PIRRG’s financial
17 impairment constituted sufficient grounds for a formal delinquency proceeding pursuant to NRS
18 696B.210 and NRS 696B.220.

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

24 On April 2, 2020 the Nevada Insurance Commissioner, in her court-appointed capacity as
25 Temporary Receiver of PIRRG, retained the services of Regulatory Services Group to act as the Special
26 Deputy Receiver for PIRRG. Regulatory Services Group (“RSG” or “Special Deputy Receiver” or
27

1 “SDR”) is vested with all the rights, duties and authority of the Temporary Receiver, subject to the
2 supervision of the Nevada Insurance Commissioner as Temporary Receiver and of this Court.

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

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

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

9 **II. RECEIVERSHIP ADMINISTRATION**

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

11 As reported previous, the claims filing deadline was December 1, 2022. Upon entry of the August
12 1, 2022 Claims Order, the estate mailed 1,069 notices to all known members, insureds, claimants,
13 vendors, employees, investors and state/regulatory agencies who may have an interest in PIRRG. In
14 addition to the mailing, notices were also issued upon request and where appropriate Proof of Claim
15 (“POC”) forms were provided to interested parties on or before the December 1, 2022 bar-date. Finally,
16 in accordance with the entry of the court’s permanent receivership order, the SDR published notice of
17 the permanent receivership and liquidation proceeding as well as the POC deadline in three newspapers
18 ranging from regional to national circulation.

19 The Permanent Receivership Order and Liquidation Order as well as the August 1, 2022 order
20 setting the proof of claims deadline and the January 27, 2023 order granting good faith settlement
21 authority are available for review on the RSG website.

22 **B. PIRRG Policies**

23 As a result of the Permanent Receivership Order, all primary in-force malpractice
24 insurance has now lapsed.

25 //

26 //

1 **C. Policyholder Related Claims**

2 As of the December 1, 2022 claims bar-date, the SDR received 60 POCs from PIRRG claimants
3 and creditors who have asserted claims totaling approximately \$2,890,945. The SDR continues his
4 review and determination of the eight policy-related POCs received timely (Nevada priority Class
5 B). As of this report, three of the Class B claims have been approved and one is pending approval subject
6 to additional documentation. One claim is being evaluated for settlement, and three additional Class B
7 claims were submitted as unliquidated. Pursuant to NRS 696B.450(1) contingent and unliquidated
8 claims do not share in the distribution unless certain exceptions are met. The SDR has contacted these
9 claimants in an attempt to obtain additional information to further evaluate the same. The SDR expects
10 to complete the review process for the remaining claims in the next quarter. Given the limited assets
11 held by the estate, the SDR will forego any administrative expense to review and determine POCs that
12 fall below the Class B priority pursuant not NRS 696B.330(4)². All such creditors will be provided a
13 notice of insufficient funds to pay their class of claim and thereafter those POCs will be deemed rejected
14 and closed.

15 As of March 31, 2023, PIRRG reported \$3,033,100 in estimated gross policy liability³.
16 PIRRG’s open claims are not covered by any insurance guaranty statutes and the estate must address its
17 approved policy related liability solely via the proof of claim process discussed above. Absent a
18 guaranty safety net to pay open claims, the estate must essentially rely on the proceeds collected from the
19 settlement agreement reached with the London-based reinsurers to pay a portion of all approved Class B proofs
20 of claim.

21 **D. Records and Asset Control and Recovery**

22 The SDR has control of all known PIRRG bank accounts. PIRRG’s records are maintained in
23 electronic format at the offices of the SDR in San Francisco, California. Additionally, the SDR has also received

24 ² NRS 696B.330(4) specifies that “(t)he receiver is not required to process any claims in a class until it appears
25 that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class,
26 the receiver shall notify the court and may make a recommendation to the court for the processing of any such
27 claims.”

28 ³ These numbers reflect adjustments to the previously reported policy liability based on netting reinsurance and
eliminating previously reported unearned premium.

1 the full electronic complement of PIRRG’s legacy records held by its former captive manager Strategic
2 Risk Solutions. The SDR has maintained a copy of the policy administration system records as
3 well as all open claim records that were in the custody and possession of Steve Adler, PIRRG’s former
4 CEO, and/or located at the offices of Melsar Risk Management Services (“Melsar”).

5 After careful consideration of the limited case documents and uncertainty of the practical legal
6 merit to successfully prosecute the remaining claims that were asserted by prior PIRRG management
7 against two AON entities in Washoe County, in Case No. CV-19-01563, the SDR will reach out to
8 resolve the case and will seek AON’s cooperation to address any remaining causes of action and attempt
9 to avoid the need to expend legal fees in relation to the same.

10 As reported last quarter, the SDR commenced negotiations to resolve PIRRG’s remaining
11 reinsurance program with its London Market reinsurers. The SDR reached agreement to commute and
12 settle PIRRG’s remaining London-based reinsurance program for \$725,000. As reported above, on
13 January 27, 2023 this court entered an Order Granting Motion for Good Faith Settlement. The SDR is
14 now in receipt of the \$725,000 in settlement proceeds and the commutation is closed.

15 **E. Financial Analysis**

16 With the entry of the March 29, 2022 Permanent Receivership and Liquidation Orders, PIRRG’s
17 financial statements reflect the Liquidator’s best estimate of the value of assets and liabilities of PIRRG
18 at this time using a liquidation basis for accounting. As of March 31, 2023, PIRRG’s liabilities
19 exceed its assets by \$6,820,700 as PIRRG has reported assets of \$830,000 and liabilities of
20 \$7,650,700.⁴ PIRRG’s current cash and short-term investments as of March 31, 2023, total \$830,000
21 which is comprised of \$15,200 in cash or cash equivalents in their Wells Fargo operating account, accrued
22 investment income of \$2,600 and a PIRRG Pool balance of \$812,200. With the settlement proceeds now
23 collected from the reinsurers the estate will focus on completing the determination of all timely received
24 Proofs of Claim.

25
26
27 ⁴ Attached hereto as **Exhibit A**, is a copy of PIRRG’s Liquidation Balance Sheet as of March 31, 2023.

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

2 The Receiver and the SDR continue to work with the law firm of Greenberg
3 Traurig LLP (“Greenberg Traurig”), as estate counsel in this receivership matter. Additionally, the SDR
4 continued, albeit on a much reduced basis, to use the services of one part-time hourly contractor (former
5 part-time employee) located in north Florida. The engagement will terminate on May 31, 2023.

6 On August 1, 2022, the Court entered an order approving professional rates and expenses and
7 establishing a process for the review of professional expenses moving forward. In furtherance of the
8 same, attached hereto as **Exhibit B** is an income statement for the period of January 1, 2023 through
9 March 31, 2023 which summarizes expenses for the reporting period as well as an operating expense
10 summary. Submitted under seal for in camera review⁵ are **Exhibit C** and **Exhibit D** which are the billing
11 entries and associated payments made during the reporting period.⁶

12
13
14 ⁵ The *in camera* materials provided in **Exhibit C** and **Exhibit D**, are being submitted under seal and reflect paid
15 invoices. Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made
16 part of a public filing). In this regard, courts have held that the bills of legal counsel and experts may be withheld
17 from legal discovery and are not subject to legal disclosure, as this information may provide indications or context
18 concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc.*
19 *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
20 provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not
21 fee information revealed counsel’s mental impressions concerning litigation strategy). Other courts that have
22 addressed this issue have recognized that the “attorney-client privilege embraces attorney time, records and
23 statements to the extent that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l*
24 *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]
27 was compensated[,]” a situation which is “analogous to protecting attorney-client privileged information contained
28 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 January, February, and March 2023. The fees requested for Greenberg
Traurig are for January, February, and March 2023. These invoices were previously submitted directly to the
Commissioner for approval and were paid during the reporting period. RSG’s invoice for March 2023 and
Greenberg Traurig invoices for February and March 2023 are awaiting approval and will be included in a
subsequent status report.

AFFIRMATION
(Pursuant to NRS 239B.030)

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

DATED: May 15, 2023.

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 15th day of
3 May 2023, I filed the foregoing *Tenth 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-1 Liquidation Balance Sheet & Notes to Financial Statement

484 Physicians Indemnity Risk Retention Group

STATEMENT OF ASSETS AND LIABILITIES

As of March 31, 2023

	Mar 31	
	2023A	
ASSETS		
Cash and cash equivalents:		
Unrestricted	15,200	
Participation in pooled investments, at market	812,200	
Accrued investment income	2,600	
Recoverable from reinsurers	-	
Receivable from affiliates	-	
Total Available Assets	830,000	
LIABILITIES		
Accrued administrative expenses	-	
Claims against policies, including guaranty associations, before distributions	3,033,100	(Note 1)
Ceded Reinsurance Premiums Payable	333,000	
Accounts Payable	732,334	
Shareholder's claims	3,552,264	(Note 2)
Total Estimated Liabilities	7,650,700	
NET ASSETS (DEFICIENCY)	(6,820,700)	

Physicians Indemnity Risk Retention Group, Inc.
Notes to Financial Statements
March 31, 2023

Introduction

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

The March 31, 2023 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. The Liquidator agreed to a commutation settlement with the London Market reinsurers for a payment of \$725,000 which was received in the first quarter.

Note 1:

Net reserves for loss and loss adjustment expenses at March 31, 2023 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 2:

Shareholder's claims are reflected as a liability for this liquidation basis balance sheet.

EXHIBIT B

PIRRG's Q-1 Income & Expenses

Physicians Indemnity Risk Retention Group, Inc.

Income Statement

01/01/2023 - 03/31/2023

INCOME

Investment Income	\$ 7,957.85
Reinsurance Recoverable	<u>725,000.00</u>

TOTAL INCOME	732,957.85
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EXPENSES

Regulatory Services Group Fees	25,625.00
Legal Fees	7,050.00
Payroll and Fees	425.16
Postage	<u>6.54</u>

TOTAL EXPENSES	33,106.70
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NET GAIN (LOSS) FOR THE PERIOD	<u><u>\$ 699,851.15</u></u>
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