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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

**ELEVENTH STATUS REPORT**

26  
27 COME NOW, the Commissioner of Insurance (the “Commissioner”) for the State of Nevada<sup>1</sup>  
28 as Permanent Receiver of Physicians Indemnity Risk Retention Group, Inc., (“PIRRG” 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 Eleventh Status Report in the above-captioned  
receivership.

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

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

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

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

7 **II. RECEIVERSHIP ADMINISTRATION**

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

9 In accordance with this Court’s Claims Order, PIRRG’s claims filing deadline was December 1,  
10 2022. Upon entry of the August 1, 2022 Claims Order, the SDR mailed 1,069 notices to all known  
11 members, insureds, claimants, vendors, employees, investors and state/regulatory agencies who may  
12 have an interest in PIRRG. In addition to the mailing, notices were also issued upon request and where  
13 appropriate Proof of Claim (“POC”) forms were provided to interested parties on or before the December  
14 1, 2022 bar-date. Finally, in accordance with the entry of the court’s permanent receivership order, the  
15 SDR published notice of the permanent receivership and liquidation proceeding as well as the POC  
16 deadline in three newspapers ranging from regional to national circulation.

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

20 **B. PIRRG Policies**

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

23 **C. Policyholder Related Claims**

24 As of the December 1, 2022 claims bar-date, the SDR received 63 POCs from PIRRG claimants  
25 and creditors who have asserted claims totaling approximately \$4,059,183.75. As a result of conducting  
26 a secondary physical review of all timely received hard-copy POCs mailed to the offices of the SDR,  
27 three (3) additional POCs were deemed to be properly received and will be included as approved policy-  
28

1 related claims. Based on the SDR's review, there are a total of eleven (11) Class B POCs that have a  
2 total claimed amount of \$1,808,876.57.<sup>2</sup>

3 As of this report, seven of the Class B claims have been approved for a total of \$780,272.19. The  
4 remaining 4 (four) Class B claims were submitted as unliquidated. Pursuant to NRS 696B.450(1)  
5 contingent and unliquidated claims do not share in the distribution unless certain exceptions are met. Out  
6 of an abundance of caution, the SDR has contacted the claimants that submitted unliquidated claims and  
7 provided them until September 1, 2023, to provide additional information in support of the same. If the  
8 claims remain unliquidated, they will be rejected. The SDR expects to complete the review process  
9 shortly thereafter and will then file an appropriate motion with this court seeking approval to distribute  
10 estate assets. Given the limited remaining assets held by the estate, the SDR will forego any  
11 administrative expense to review and determine POCs that fall below the Class B priority pursuant not  
12 NRS 696B.330(4)<sup>3</sup>. All such creditors will be provided a notice of insufficient funds to pay their class  
13 of claim and thereafter those POCs will be deemed rejected and closed.

14 As of June 30, 2023, PIRRG reported \$3,033,100 in estimated gross policy liability.<sup>4</sup> Once the  
15 final approved Class B claim liability is determined through the completion of the POC procedure, the  
16 SDR will make adjusting entries to reflect the estate's final policy obligations. PIRRG's open claims are  
17 not covered by any insurance guaranty statutes and the estate must address its approved policy related  
18 liability solely via the proof of claim process discussed above. Absent a guaranty safety net to pay  
19

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20 <sup>2</sup> NRS 696B.420 dictates the priority for payment of claims. "Class B" claims are defined as "[a]ll claims under  
21 policies, any claims against an insured for liability for bodily injury or for injury to or destruction of tangible  
22 property which are covered claims under policies, including any such claims of the Federal Government or any  
23 state or local government, and any claims of the Nevada Insurance Guaranty Association, the Nevada Life and  
24 Health Insurance Guaranty Association and other similar statutory organizations in other jurisdictions. Any claims  
25 under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, must  
26 be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or  
27 advantages recovered or recoverable by the claimant may not be included in this class, other than benefits or  
28 advantages recovered or recoverable in discharge of familial obligations of support or because of succession at  
death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employee of the  
employer may be treated as a gratuity." NRS 696B.420(1)(b).

<sup>3</sup> NRS 696B.330(4) specifies that "(t)he receiver is not required to process any claims in a class until it appears  
that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class,  
the receiver shall notify the court and may make a recommendation to the court for the processing of any such  
claims."

<sup>4</sup> These numbers reflect adjustments to the previously reported policy liability based on netting reinsurance and  
eliminating previously reported unearned premium.

1 open claims, the estate must rely primarily on the remaining proceeds collected from the settlement reached with  
2 the London-based reinsurers to pay a portion of all approved Class B proofs of claim.

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

4 The SDR has control of all PIRRG bank accounts, and PIRRG's records are maintained in  
5 electronic format at the offices of the SDR in San Francisco, California. The SDR has the full electronic  
6 complement of PIRRG's legacy records as held by its former captive manager Strategic Risk Solutions.  
7 The SDR has maintained a copy of the policy administration system records as well as all open  
8 claim records.

9 The SDR has all case files provided by the PIRRG's former counsel. After further consideration  
10 of the costs and timing-prospect of pursuing claims asserted pre-receivership by PIRRG against two AON  
11 entities in Washoe County, in Case No. CV-19-01563, the SDR is concerned about the expenses of  
12 litigation and is considering alternatives to resolve the case. The SDR anticipates further communication  
13 with AON over the next quarter to try and bring the matter to a conclusion.

14 As previously reported, the SDR reached agreement to commute and settle PIRRG's remaining  
15 London-based reinsurance program for \$725,000. On January 27, 2023, this court entered an Order  
16 Granting Motion for Good Faith Settlement. The SDR is now in receipt of the \$725,000 in settlement  
17 proceeds and the commutation is closed.

18 **E. Financial Analysis**

19 Since the entry of the March 29, 2022 Permanent Receivership and Liquidation Orders, PIRRG's  
20 financial statements reflect the Liquidator's best estimate of the value of assets and liabilities of PIRRG  
21 at this time using a liquidation basis for accounting. As of June 30, 2023, PIRRG's liabilities  
22 exceed its assets by \$6,837,598 as PIRRG has reported assets of \$813,100 and liabilities of  
23 \$7,650,698.<sup>5</sup> PIRRG's current cash and short-term investments as of June 30, 2023, total \$813,100 which  
24 is comprised of \$15,200 in cash or cash equivalents in their Wells Fargo operating account, accrued  
25 investment income of \$2,600 and a PIRRG Pool balance of \$795,300. With the settlement proceeds now  
26 collected from the reinsurers the estate will focus on completing the determination of all timely received  
27 Class B POCs and will seek authority to release a distribution of estate assets.

28 <sup>5</sup> Attached hereto as **Exhibit A**, is a copy of PIRRG's Liquidation Balance Sheet as of June 30, 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. The SDR used the  
4 services of one part-time hourly contractor (former part-time employee) located in north Florida during  
5 the past quarter. The engagement was terminated 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 April 1, 2023 through June  
9 30, 2023 which summarizes expenses for the reporting period as well as an operating expense summary.  
10 Submitted under seal for in camera review<sup>6</sup> are **Exhibit C** and **Exhibit D** which are the billing entries  
11 and associated payments made during the reporting period.<sup>7</sup>

12  
13  
14  
15 <sup>6</sup> The *in camera* materials provided in **Exhibit C** and **Exhibit D**, are being submitted under seal and reflect paid  
16 invoices. Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made  
17 part of a public filing). In this regard, courts have held that the bills of legal counsel and experts may be withheld  
18 from legal discovery and are not subject to legal disclosure, as this information may provide indications or context  
19 concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc.*  
20 *v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014)  
21 (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).

22           The *in-camera* review should apply not only to documentation concerning attorney fees, but it also extends  
23 to “details of work revealed in [an] expert’s work description [which] would relate to tasks for which she [or he]  
24 was compensated[,]” a situation which is “analogous to protecting attorney-client privileged information contained  
25 in counsel’s bills describing work performed.” *See DaVita Healthcare Partners, Inc. v. United States*, 128 Fed.  
26 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  
28 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)).

<sup>7</sup> The fees requested herein for RSG are for March 2023. The fees requested for Greenberg Traurig are for  
February and March June 2023. These invoices were previously submitted directly to the Commissioner for  
approval and were paid during the reporting period. RSG’s invoice for April through June 2023 and Greenberg  
Traurig invoices for April through June 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: August 11, 2023.

By: /s/ Kara B. Hendricks  
MARK E. FERRARIO, Bar No. 1625  
KARA B. HENDRICKS, Bar No. 7743  
GREENBERG TRAUIG, 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 11<sup>th</sup> day of  
3 August 2023, I filed the foregoing *Eleventh 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](mailto:gene@levertylaw.com)

10 */s/ Andrea Lee Rosehill* \_\_\_\_\_

**INDEX TO EXHIBITS**

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# EXHIBIT A

PIRRG's Q-2 Liquid Balance Sheet & Notes to Financial Statement

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## 484 Physicians Indemnity Risk Retention Group

### STATEMENT OF ASSETS AND LIABILITIES

As of June 30, 2023

	Jun 30	
	2023A	
<b>ASSETS</b>		
Cash and cash equivalents:		
Unrestricted	15,200	
Participation in pooled investments, at market	795,300	
Accrued investment income	2,600	
Recoverable from reinsurers	-	
Receivable from affiliates	-	
<b>Total Available Assets</b>	<b>813,100</b>	
<b>LIABILITIES</b>		
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)
<b>Total Estimated Liabilities</b>	<b>7,650,698</b>	
<b>NET ASSETS (DEFICIENCY)</b>	<b>(6,837,598)</b>	

Physicians Indemnity Risk Retention Group, Inc.  
Notes to Financial Statements  
June 30, 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 June 30, 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 of 2023.

Note 1:

Net reserves for loss and loss adjustment expenses at June 30, 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.

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# EXHIBIT B

## PIRRG's Q-2 Income & Expenses

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**Physicians Indemnity Risk Retention Group, Inc.**

**Income Statement**

**04/01/2023 - 06/30/2023**

**INCOME**

Investment Income	\$ 2,852.38
Reinsurance Recoverable	<u>827.40</u>

TOTAL INCOME 3,679.78

**EXPENSES**

Regulatory Services Group Fees	17,062.50
Legal Fees	3,135.00
Other Expenses	791.25
Postage	<u>0.60</u>

TOTAL EXPENSES 20,989.35

**NET GAIN (LOSS) FOR THE PERIOD** \$ (17,309.57)