

1 SR  
2 MARK E. FERRARIO, Bar No. 1625  
3 KARA B. HENDRICKS, Bar No. 7743  
4 GREENBERG TRAUIG, LLP  
5 10845 Griffith Peak Drive, Suite 600  
6 Las Vegas, Nevada 89135  
7 Telephone: (702) 792-3773  
8 Facsimile: (702) 792-9002  
9 Email: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)  
10 [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)

11 *Attorney for Petitioner*

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

**TWELFTH STATUS REPORT**

26 COME NOW, the Commissioner of Insurance (the “Commissioner”) for the State of Nevada<sup>1</sup> 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 Twelfth Status Report in the above-captioned receivership.

**I. INTRODUCTION AND HISTORICAL BACKGROUND**

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

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

7 On July 22, 2019 the Commissioner determined PIRRG was operating in a hazardous  
8 financial condition and notified PIRRG of the regulatory impairment. PIRRG submitted three  
9 proposed Corrective Action Plans between May and September of 2019, all were reviewed by the  
10 Nevada Division of Insurance and thereafter deemed insufficient to address and resolve the RBC and  
11 financial impairment of the risk retention group to the satisfaction of the Commissioner and her  
12 regulatory staff. On March 6, 2020 PIRRG submitted an unsigned financial report indicating it was  
13 insolvent pursuant to NRS 696B.110. The foregoing facts associated with PIRRG's financial  
14 impairment constituted sufficient grounds for a formal delinquency proceeding pursuant to NRS  
15 696B.210 and NRS 696B.220.

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

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

26 On March 29, 2022, this Court entered an Order of Permanent Receivership ("Permanent  
27 Receivership Order") and an Order Granting Motion for Liquidation ("Liquidation Order").  
28

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

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

5 **II. RECEIVERSHIP ADMINISTRATION**

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

7 In accordance with this Court’s Claims Order, PIRRG’s claims filing deadline was December 1,  
8 2022. Upon entry of the August 1, 2022 Claims Order, the SDR mailed 1,069 notices to all known  
9 members, insureds, claimants, vendors, employees, investors and state/regulatory agencies who may  
10 have an interest in PIRRG. In addition to the mailing, notices were also issued upon request and where  
11 appropriate Proof of Claim (“POC”) forms were provided to interested parties on or before the December  
12 1, 2022 bar-date. Finally, in accordance with the entry of the court’s permanent receivership order, the  
13 SDR published notice of the permanent receivership and liquidation proceeding as well as the POC  
14 deadline in three newspapers ranging from regional to national circulation.

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

18 **B. PIRRG Policies**

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

21 **C. Policyholder Related Claims**

22 As of the December 1, 2022 claims bar-date, the SDR received 63 POCs from PIRRG claimants  
23 and creditors who have asserted claims totaling approximately \$4,059,183.75. As a result of conducting  
24 a secondary physical review of all timely received hard-copy POCs mailed to the offices of the SDR,  
25 three (3) additional POCs were deemed to be properly received and will be included as approved policy-  
26  
27  
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, the SDR has approved all eleven Class B claims for a total of \$1,490,849.94.  
4 This represents the entire approved Class B claim population. Pursuant to NRS 696B.450(1) contingent  
5 and unliquidated claims do not share in the distribution unless certain exceptions are met. As reported  
6 in our prior status filing and out of an abundance of caution, the SDR contacted the claimants that  
7 submitted timely but unliquidated claims and provided them until September 1, 2023, to provide  
8 additional information in support of the same.

9 In addition to the eleven approved Class B claims, the SDR has issued 52 "No Assets" letters to  
10 the remaining claimants who submitted timely proofs of claim. The 52 claimants fall into Classes C, G,  
11 K and L for a total claimed amount of \$1,857,010.20. Given the limited remaining assets held by the  
12 estate, the SDR will forego any administrative expense to review and determine POCs that fall below the  
13 Class B priority pursuant to NRS 696B.330(4)<sup>3</sup>. All such creditors have been provided a notice of  
14 insufficient funds to pay their class of claim as NRS 696B.420 requires that each claim in each creditor  
15 class must be paid in full before members of the next class receive any payment. All 52 "No Asset"  
16 letters were mailed on September 20, 2023 and the recipients have 60 days to appeal. As of this writing  
17 the SDR had not received any formal appeals or notification of objections. The deadline for such  
18 responses is November 20, 2023. After November 20, 2023 deadline, if the SDR has not received a  
19 timely notice of appeal all those POCs will be deemed rejected and closed.

---

21 <sup>2</sup> NRS 696B.420 dictates the priority for payment of claims. "Class B" claims are defined as "[a]ll claims under  
22 policies, any claims against an insured for liability for bodily injury or for injury to or destruction of tangible  
23 property which are covered claims under policies, including any such claims of the Federal Government or any  
24 state or local government, and any claims of the Nevada Insurance Guaranty Association, the Nevada Life and  
25 Health Insurance Guaranty Association and other similar statutory organizations in other jurisdictions. Any claims  
26 under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, must  
27 be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or  
28 advantages recovered or recoverable by the claimant may not be included in this class, other than benefits or  
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."

1 As of September 30, 2023, PIRRG reported \$1,490,849 in approved policy liability.<sup>4</sup> The final  
2 approved Class B claim liability has been determined through the completion of the court-approved POC  
3 procedure, and the SDR has notified all 11 Class B claimants of their approved claim. All approved  
4 claims have until November 20, 2023 to file any appeal of their claim determination. PIRRG's approved  
5 policy claims are not covered by any insurance guaranty statutes and the estate must address this  
6 approved policy related liability solely via the proof of claim process. Absent a guaranty fund safety  
7 net to pay open claims, the estate must rely on the remaining cash assets to pay a portion of all eleven approved  
8 Class B policy claims.

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

10 The SDR remains in control of all PIRRG bank accounts, and PIRRG's records are maintained  
11 in electronic format at the offices of the SDR in San Francisco, California. The SDR continues to hold PIRRG's  
12 legacy records as held by its former captive manager Strategic Risk Solutions. The SDR has relied  
13 upon a copy of the policy administration system records as well as open claim records to support  
14 and complete the POC process.

15 The SDR has considered the costs and merits of pursuing claims asserted pre-receivership by  
16 PIRRG against two AON entities in Washoe County, in Case No. CV-19-01563. The SDR is concerned  
17 about the expenses of litigation and is working to bring the matter to a conclusion without further material  
18 expense to the estate.

19 As previously reported, the SDR reached agreement to settle PIRRG's remaining reinsurance  
20 program for \$725,000, and on January 27, 2023, this court entered an Order Granting Motion for Good  
21 Faith Settlement. The SDR is in receipt of the \$725,000 in settlement proceeds.

22 **E. Financial Analysis**

23 Since the entry of the March 29, 2022 Permanent Receivership and Liquidation Orders, PIRRG's  
24 financial statements reflect the Liquidator's best estimate of the value of assets and liabilities of PIRRG  
25 at this time using a liquidation basis for accounting. As of September 30, 2023, PIRRG's  
26 liabilities exceed its assets by \$2,549,977 as PIRRG has reported assets of \$797,881 and liabilities of  
27

---

28 <sup>4</sup> These numbers reflect all approved Class B policy liability based on netting reinsurance and eliminating  
previously reported unearned premium.

1 \$3,347,858.<sup>5</sup> PIRRG’s current cash and short-term investments as of September 30, 2023, total \$797,881  
2 which is comprised of \$15,200 in cash or cash equivalents in their Wells Fargo operating account, accrued  
3 investment income of \$2,600 and a PIRRG Pool balance of \$780,081. With the settlement proceeds  
4 collected from the reinsurers and the estate’s determination of all timely received Class B POCs the SDR  
5 will await the conclusion of the POC appeal period described above and subject to any timely objections  
6 or appeals the SDR will prepare the necessary filings to seek authority to release a distribution of estate  
7 assets in early 2024.

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

9 The Receiver and the SDR continue to work with the law firm of Greenberg  
10 Traurig LLP (“Greenberg Traurig”), as estate counsel in this receivership matter.

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 April 1, 2023 through  
14 September 30, 2023 which summarizes expenses for the reporting period as well as an operating expense  
15 summary. Submitted under seal for in camera review<sup>6</sup> are **Exhibit C** and **Exhibit D** which are the billing  
16

17 <sup>5</sup> Attached hereto as **Exhibit A**, is a copy of PIRRG’s Liquidation Balance Sheet as of September 30, 2023.

18 <sup>6</sup> The *in camera* materials provided in **Exhibit C** and **Exhibit D**, are being submitted under seal and reflect paid  
19 invoices. Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made  
20 part of a public filing). In this regard, courts have held that the bills of legal counsel and experts may be withheld  
21 from legal discovery and are not subject to legal disclosure, as this information may provide indications or context  
22 concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc.*  
23 *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  
24 provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not  
25 fee information revealed counsel’s mental impressions concerning litigation strategy). Other courts that have  
26 addressed this issue have recognized that the “attorney-client privilege embraces attorney time, records and  
27 statements to the extent that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l*  
28 *Grp., Inc.*, 116 F.R.D. 211, 213 (N.D. Cal. 1986).

The *in-camera* review should apply not only to documentation concerning attorney fees, but it also extends  
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  
“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)).

1 entries and associated payments made during the reporting period.<sup>7</sup>

2 **G. Ongoing Priorities**

3 The SDR has finalized the determination of all timely received proofs of claim and has  
4 approved eleven Class B policyholder-related liability claims for a total of \$1,490,849. The SDR has  
5 sent notices to all claimants advising of their approval or rejection for their timely received POCs. Given  
6 the limited assets held by the SDR, creditors with claims classified as Class C - J received letters advising  
7 them their creditor class will not be considered due to insufficient estate assets. After the appeal period  
8 expires on November 20, 2023, the SDR will file an appropriate motion with this Court seeking approval  
9 of a claims distribution plan and seeking to close this liquidation proceeding. The Receiver is hopeful  
10 that such a motion can be filed before or near year end subject to any timely objections or appeals.

11 **CONCLUSION**

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

14 DATED: November 9, 2023.

15 Respectfully submitted:

16 Scott Kipper, Commissioner of Insurance  
17 of the State of Nevada, in her Official Capacity as  
18 Statutory Receiver of Delinquent Domestic Insurers

19 By: /s/ Joe Holloway  
20 Joe Holloway  
21 Special Deputy Receiver

22 Respectfully submitted:

23 By: /s/ Kara B. Hendricks  
24 MARK E. FERRARIO, Bar No. 1625  
25 KARA B. HENDRICKS, Bar No. 7743  
26 GREENBERG TRAUIG, LLP  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135

27 *Attorneys for Petitioner*

28 <sup>7</sup> The fees requested herein for RSG are for April thru September 2023. The fees requested for Greenberg Traurig are for May thru August 2023. These invoices were previously submitted directly to the Commissioner for approval and were paid during the reporting period.

**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: November 9, 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  
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



1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the law firm of Greenberg Traurig, and that on the 9<sup>th</sup> day of  
3 November 2023, I filed the foregoing *Twelfth 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**

<b>Exhibit No.</b>	<b>Description</b>	<b>Number of Pages</b>
A	PIRRG's Q-3 Liquidation Balance Sheet & Notes to Financial Statement	3
B	PIRRG's Q-3 Income & Expenses	2
C	RSG's Invoices – <i>filed under seal for in camera review</i>	83
D	GT's Invoices – <i>filed under seal for in camera review</i>	24

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 A

PIRRG's Q-3 Liquid Balance Sheet & Notes to Financial Statement

---

## 484 Physicians Indemnity Risk Retention Group

### STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2023

Sep 30

2023A

#### ASSETS

Cash and cash equivalents:

Unrestricted

15,200

Participation in pooled investments, at market

780,081

Accrued investment income

2,600

Recoverable from reinsurers

-

Receivable from affiliates

-

**Total Available Assets**

797,881

#### LIABILITIES

Class B Approved Policyholder Claims

1,490,849 (Note 1)

Class C Unearned Premium Claims(not adjudicated)

97,512 (Note 2)

Class G General Creditor Claims (not adjudicated)

1,069,199 (Note 2)

Classes K&L Shareholder's Claims (not adjudicated)

690,298 (Note 2)

**Total Estimated Liabilities**

3,347,858

**NET ASSETS (DEFICIENCY)**

(2,549,977)

Physicians Indemnity Risk Retention Group, Inc.  
Notes to Financial Statements  
September 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 September 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 September 30, 2023 reflect the amounts carried on the Company's books to pay all claims for benefits under PIRRG policies that have been approved by the Liquidator.

Note 2:

Class C unearned premium claims, Class G general creditor claims and Class K&L shareholder claims were not adjudicated due to the lack of assets being available to pay these classes of claims in accordance with Nevada Revised Statute NRS 696B.330(4).

---

# EXHIBIT B

## PIRRG's Q-3 Income & Expenses

---

**Physicians Indemnity Risk Retention Group, Inc.**  
**Income Statement**  
**07/01/2023 - 09/30/2023**

**INCOME**

Investment Income	\$ 3,360.33
Reinsurance Recoverable	<u>0.00</u>

TOTAL INCOME 3,360.33

**EXPENSES**

Regulatory Services Group Fees	17,062.50
Legal Fees	2,660.00
Other Expenses	0.00
Postage	<u>32.13</u>

TOTAL EXPENSES 19,754.63

**NET GAIN (LOSS) FOR THE PERIOD** \$ (16,394.30)