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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

THIRTEENTH 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 files this Thirteenth 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

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 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 On December 11, 2023 the Receiver , filed a Motion to Resolve Appeals Regarding Proof of
6 Claims Nos. 90676 and 90905. A hearing has been set for February 21, 2024 at 2:00 p.m.

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 \$1,808,876.57.²

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)³. 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 had 60 days to appeal. The SDR has
17 received two timely submitted appeals by two claimants and has been unable to resolve the appeals. As
18 such the SDR filed a motion with this court on December 11, 2023 seeking a hearing for the resolution
19 of the two disputed POCs in accordance with NRS 696B.330(8). The balance of POCs that received "No
20

21 ² 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).

³ 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 Assets” letters and did not timely submit an appeal by November 30, 2023 are now deemed rejected and
2 closed.

3 As of December 31, 2023, PIRRG reported \$1,490,849 in approved policy liability.⁴ The final
4 approved Class B claim liability has been determined through the completion of the court-approved POC
5 procedure, and the SDR has notified all 11 Class B claimants of their approved claim. All approved
6 claims had until November 20, 2023 to file any appeal of their claim determination. PIRRG’s approved
7 policy claims are not covered by any insurance guaranty statutes and the estate must address this
8 approved policy related liability solely via the proof of claim process. Absent a guaranty fund safety
9 net to pay open claims, the estate must rely on the remaining cash assets to pay a portion of all eleven approved
10 Class B policy claims.

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

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

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

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

24 **E. Financial Analysis**

25 Since the entry of the March 29, 2022 Permanent Receivership and Liquidation Orders, PIRRG’s
26 financial statements reflect the Liquidator’s best estimate of the value of assets and liabilities of PIRRG

27 _____
28 ⁴ These numbers reflect all approved Class B policy liability based on netting reinsurance and eliminating
previously reported unearned premium.

1 at this time using a liquidation basis for accounting. As of December 31, 2023, PIRRG's liabilities
2 exceed its assets by \$2,549,994 as PIRRG has reported assets of \$797,864 and liabilities of
3 \$3,347,858.⁵ PIRRG's current cash and short-term investments as of December 31, 2023, total \$797,864
4 which is comprised of \$15,183 in cash or cash equivalents in their Wells Fargo operating account, accrued
5 investment income of \$2,600 and a PIRRG Pool balance of \$780,081. With the settlement proceeds
6 collected from the reinsurers and the estate's determination of all timely received Class B POCs the SDR
7 will await the conclusion of the POC appeal process described above and subject to any successful
8 appeals the SDR will prepare the necessary filings to seek authority to release a distribution of estate
9 assets and work to close the estate in 2024.

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

11 The Receiver and the SDR continue to work with the law firm of Greenberg
12 Traurig LLP ("Greenberg Traurig"), as estate counsel in this receivership matter.

13 On August 1, 2022, the Court entered an order approving professional rates and expenses and
14 establishing a process for the review of professional expenses moving forward. In furtherance of the
15 same, attached hereto as **Exhibit B** is an income statement for the period of April 1, 2023 through
16 September 30, 2023 which summarizes expenses for the reporting period as well as an operating expense
17 summary. Submitted under seal for in camera review⁶ are **Exhibit C** and **Exhibit D** which are the billing

18 ⁵ Attached hereto as **Exhibit A**, is a copy of PIRRG's Liquidation Balance Sheet as of December 31, 2023.

19 ⁶ 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)
25 (finding that billing entries were privileged because they reveal a party's strategy and the nature of services
26 provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not
27 fee information revealed counsel's mental impressions concerning litigation strategy). Other courts that have
28 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).

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

1 entries and associated payments made during the reporting period.⁷

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. The SDR received two
8 appeals from two claimants whose claims fall below Class B priority and was unable to resolve either
9 appeal. The SDR has filed a motion with this court seeking a hearing to resolve the two pending POC
10 determination appeals. A hearing is scheduled on February 21, 2024 regarding the same. Subsequent to
11 the determination resolving the two appeals, the SDR will file an appropriate motion with this Court
12 seeking approval of a final claims distribution plan and seeking to close this liquidation proceeding.

13 / / /

14 / / /

26 areas of law,” are protected from disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th
27 Cir. 1992)).

28 ⁷ The fees requested herein for RSG are for October thru December 2023. The fees requested for Greenberg
Taurig are for November and December 2023. These invoices were previously submitted directly to the
Commissioner for approval and were paid during the reporting period.

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 6, 2024.

5 Respectfully submitted:

6 Scott Kipper, 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
10 Joe Holloway
11 Special Deputy Receiver

12 Respectfully submitted:

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

19 *Attorneys for Petitioner*

20 **AFFIRMATION**

21 **(Pursuant to NRS 239B.030)**

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

24 DATED: February 6, 2024.

25 By: /s/ Kara B. Hendricks
26 MARK E. FERRARIO, Bar No. 1625
27 KARA B. HENDRICKS, Bar No. 7743
28 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 6th day of
3 February 2024, I filed the foregoing *Thirteenth 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, Esq.
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* _____

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EXHIBIT A

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

484 Physicians Indemnity Risk Retention Group

STATEMENT OF ASSETS AND LIABILITIES

As of December 31, 2023

	Dec 31	
	2023A	
ASSETS		
Cash and cash equivalents:		
Unrestricted	15,183	
Participation in pooled investments, at market	780,081	
Accrued investment income	2,600	
Recoverable from reinsurers	-	
Receivable from affiliates	-	
Total Available Assets	797,864	
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)	(2,549,994)	

EXHIBIT B
PIRRG's Q-4 Income & Expenses

Physicians Indemnity Risk Retention Group, Inc.

Income Statement

10/1/2023 - 12/31/2023

INCOME

Investment Income	\$ 21,654.16
Reinsurance Recoverable	<u>0.00</u>

TOTAL INCOME	21,654.16
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EXPENSES

Regulatory Services Group Fees	7,562.50
Legal Fees	522.50
Other Expenses	0.00
Postage	<u>3.25</u>

TOTAL EXPENSES	8,088.25
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NET GAIN (LOSS) FOR THE PERIOD	<u><u>\$ 13,565.91</u></u>
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Physicians Indemnity Risk Retention Group, Inc.
Notes to Financial Statements
December 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 December 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 of 2023.

Note 1:

Net reserves for loss and loss adjustment expenses at December 31, 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).