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ALAN GLOVER  
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## IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

### IN AND FOR THE COUNTY OF CARSON CITY

11 STATE OF NEVADA, EX REL. ) Case No. 14 OC 00114 1B  
12 COMMISSIONER OF INSURANCE, IN HIS )  
13 OFFICIAL CAPACITY AS STATUTORY ) Dept. No. 2  
14 RECEIVER FOR DELINQUENT DOMESTIC )  
15 INSURER, )  
16 Plaintiff, )  
17 vs. )  
18 PHYSICIANS BENEFIT RESOURCES RISK )  
19 RETENTION GROUP, INC. , a Nevada )  
20 Domiciled Association Captive Insurance )  
21 Company, )  
22 Defendant )  
23 )  
24 )  
25 )  
26 )

### SECOND STATUS REPORT

27 Scott J. Kipper, Commissioner of Insurance (the "Commissioner") for the State of  
28 Nevada, in his capacity as Permanent Receiver of Physicians Benefit Resources Risk  
29 Retention Group, Inc. ("PBR" or the "Company"), and Regulatory Services Group ("RSG"),  
30 Receivership Manager of PBR, file this Second Status Report in the above-captioned  
31 receivership.

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## I. INTRODUCTION AND HISTORICAL BACKGROUND

PBR is a captive insurance company operating as a risk retention group and incorporated and organized under the Nevada Insurance laws and the Liability Risk Retention Act of 1986. The company is domiciled in the State of Nevada and received its Certificate of Authority on July 20, 2010, and operated under the authority of Nevada Revised Statutes ("NRS") Chapter 694C.

The Company wrote professional liability insurance to physicians and their medical groups under claims-made indemnity policies. Ultimately, the Company was unable to collect sufficient premiums to both cover its fixed costs and operate as a viable insurer. To date, it has been able to attract only one doctor group.

On December 31, 2012, the Company reported a Capital and Surplus balance of \$149,013. In accordance with NRS 694C.250(1), the company was unable to maintain the required minimum Capital and Surplus balance of \$500,000. As a consequence of failing to restore the minimum Capital and Surplus balance by April 30, 2013, the Company agreed to a voluntary suspension of its Certificate of Authority. On June 26, 2013, the Company filed a run-off plan with the Nevada Division of Insurance to begin the process of closing down operations.

On June 12, 2014, the Nevada Insurance Commissioner was appointed as Permanent Receiver of the Company by the First Judicial District Court of the State of Nevada (the "Court"). On June 17, 2014, an Amended Order Appointing Commissioner as Permanent Receiver for Physicians Benefit Resources Risk Retention Group, Inc., Order of Liquidation, and Other Permanent Relief (the "Permanent Receivership and Liquidation Order") was entered by the Court.

On June 12, 2014, Commissioner Kipper as Permanent Receiver of the Company retained David E. Wilson as Receivership Manager. The Receivership Manager was authorized to retain the services of Scott Pearce of Regulatory Services Group (RSG), and other staff of RSG as necessary, as his Receivership Supervisor. As provided for by the

1 Permanent Receivership and Liquidation Order, the Receiver and Receivership Manager are  
2 authorized to conduct the business of the Company and to administer its affairs for the  
3 protection of all secured creditors, insureds, policyholders, and general creditors.

4

## II. RECEIVERSHIP ADMINISTRATION

5 **A. Notices of Receivership and Notification to Interested Parties**

6 The Receivership Manager prepared and mailed notices of the receivership proceeding  
7 apprising all known interested parties of the receivership and pending liquidation of the  
8 Company. The notice contained contact information for questions and where to find copies of  
9 the receivership orders. Additionally, the RSG website was updated with the notice and links  
10 to view the permanent receivership and liquidation order.

11 The Receivership Manager also personally served a certified copy of the permanent  
12 receivership and liquidation order on the Company's depository banking partner. Consulting  
13 counsel for the Company and RSG together provided notice of the receivership and copies of  
14 the permanent receivership and liquidation order to Laurence Mohn (CFO, COO, and Director  
15 of the Company), Keith Mohn, Dr. John Paul Elliott (a board member of the Company and sole  
16 owner of Colorado Brain and Spine institute), Richard Staub, Esq. (counsel for the Company)  
17 as well as all known reinsurers, brokers, reinsurance intermediaries, professional service  
18 providers, and any other known stakeholders to the Company. Notices also will be published  
19 in newspapers in locations where the Company wrote insurance. Notices continue to be sent  
20 to outside vendors as the Receiver becomes aware of them.

21 **B. Policyholder Related Claims**

22 As of this Status Report, the Company has one open claim from its sole insured,  
23 the Colorado Brain and Spine Institute (the "CBSI"). The Company has insured CBSI for  
24 \$1 million in indemnity coverage. The defense of the litigated claim initially was funded by a  
25 captive insurance policy issued by CBSI's captive insurance company, Aequus, up to a stated  
26 amount, after which the named defendant in the suit, who is covered under the CBSI policy  
27 and is a insured of the Company, personally has been paying the costs of defense. In  
28

1 accordance with the terms of the insurance policy the insured/named defendant retains the  
2 exclusive rights to compromise or settle the litigation associated with the pending claim.  
3 Absent a negotiated settlement by and between the various parties to the litigation, the  
4 insured/named defendant faces a December 2014 trial.

5 The Receivership Manager is evaluating implementing a “proof of claim” process  
6 whereby notices will be sent to all known creditors of the company instructing them on the  
7 procedure by which to submit claims against the Company by completing a Proof of Claim  
8 document (“POC”) together with any support for the claim. All such POCs must be submitted  
9 to the Company on or before a definitive claims bar date that will be included as part of the  
10 notification.

11 **C. Reinsurance**

12 The Receivership Manager has reviewed documents which indicate the Company’s  
13 reinsurance program is comprised of two contracts that may be liable for up to \$950,000 in  
14 reinsurance coverage in excess of the Company’s \$50,000 loss retention. The Receivership  
15 Manager will continue to communicate periodically with the reinsurers to keep them informed  
16 of any developments related to the pending claim and associated litigation. The fact that the  
17 litigation has not been resolved and the associated claim has not been determined, the  
18 Receivership Manager currently is not in a position to submit a claim in accordance with the  
19 reinsurance contracts.

20 **D. Records and Assets Control**

21 The Receivership Manager essentially has completed the document and data transfer  
22 and has control of all the known books and records of the Company. Due to very limited  
23 economic resources available to PBR and to avoid the additional expense of travel, the  
24 Receivership Manager has relied on former principals, vendors, and consultants to provide all  
25 known books and records of the Company. The majority of the Company’s records are  
26 maintained in electronic form. The records were dispersed to various parties in various  
27 interstate locations. Receivership Manager has made contact with almost all identified service  
28

1 providers and consultants working on behalf of the Company at the time of the appointment of  
2 the Receiver. The Receivership Manager has set up a secure web-based location to continue  
3 to receive any further records or information related to the Company.

4 The Receivership Manager has full control and authority over the Company's sole bank  
5 account. At the request of Bank of America, the Receivership Manager closed the Company's  
6 Bank of America bank account. Thereafter the Receivership Manager opened a new account  
7 with Union Bank.

8 **E. Financial Analysis**

9 As of August 31, 2014, the Company had cash of \$151,091 and a potential reinsurance  
10 receivable of approximately \$950,000. The Company has a known policy claim and pre-  
11 liquidation service provider expense liabilities in excess of \$1,200,000. The Receiver has  
12 incurred \$22,654 in operating expenses during the months of June, July, and August 2014.

13 Based on the financial condition of the Company and the uncertainty associated with  
14 both the timing and economic impact of the pending policy claim and the related claim  
15 litigation, the Receiver will need time to determine the benefit and feasibility of conducting a  
16 comprehensive "proof of claim" process. Should the Receiver determine the Company's  
17 policy obligations exceed available cash, the Receiver likely will petition this Court to modify  
18 the "proof of claim" process to avoid unnecessary administrative expense. The Receivership  
19 Manager continues to investigate other potential asset recoveries.

20 **AFFIRMATION**

21 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding  
22 document, Second Status Report, filed in this case number 14-OC-00114-1B, does not  
23 contain the social security number of any person.

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### III. CONCLUSION

In compliance with the Court's instructions for a status report regarding the affairs of the Company, the Receivership Manager has submitted the aforementioned report and remains available to present further on any matters in this report as the Court may deem necessary.

DATED: October 7, 2014

Respectfully submitted:

Scott J. Kipper, Commissioner of Insurance  
of the State of Nevada, in his Official Capacity as  
Statutory Receiver of Delinquent Domestic Insurers

By:

Regulatory Services Group  
Receivership Supervisor

Respectfully submitted by:

CATHERINE CORTEZ MASTO  
Attorney General

By: 7/s/ Richard Yien  
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## **CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 7<sup>th</sup> day of October 2014, I filed a copy of the foregoing **SECOND STATUS REPORT** by depositing for mailing at Carson City, Nevada, a true and correct copy in first class mail, postage prepaid, fully addressed to:

David E. Wilson  
CEO, SDIC  
Conservation and Liquidation Office  
100 Pine Street, 26<sup>th</sup> Floor  
San Francisco, CA 94111

and via interoffice mail to:

Scott Kipper, Commissioner of Insurance  
Attn: Terri Verbrugghen  
1818 E. College Parkway, Ste. 103  
Carson, City, NV 89706

An Employee of the  
Office of the Attorney General