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1 ADAM PAUL LAXALT
2 Attorney General
3 RICHARD PAILI YIEN
4 Deputy Attorney General
5 Nevada Bar No. 13035
6 100 North Carson Street
7 Carson City, NV 89701-4717
(775) 684-1129
(775)684-1156(fax)
Email: ryien@ag.nv.gov
8 Attorney for the Division of Insurance

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10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF CARSON CITY**

12 STATE OF NEVADA, EX REL.) Case No. 14 OC 00114 1B
13 COMMISSIONER OF INSURANCE, IN HIS)
14 OFFICIAL CAPACITY AS STATUTORY) Dept. No. 2
15 RECEIVER FOR DELINQUENT DOMESTIC)
16 INSURER,)
17 Plaintiff,)
18 vs.)
19 PHYSICIANS BENEFIT RESOURCES RISK)
20 RETENTION GROUP, INC., a Nevada)
21 Domiciled Association Captive Insurance)
22 Company,)
23 Defendant)
24)
25)
26)
27)

28 **THIRD STATUS REPORT**

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

34 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

35 PBR is a captive insurance company operating as a risk retention group, incorporated

1 and organized under the Nevada Insurance laws and the Liability Risk Retention Act of 1986.
2 The company is domiciled in the State of Nevada and received its Certificate of Authority
3 on July 20, 2010 and operated under the authority of Nevada Revised Statutes ("NRS")
4 Chapter 694C.

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

9 On December 31, 2012, the Company reported a Capital and Surplus balance of
10 \$149,013. In accordance with NRS 694C.250(1), the company was unable to maintain the
11 required minimum Capital and Surplus balance of \$500,000. As a consequence of failing
12 to restore the minimum Capital and Surplus balance by April 30, 2013, the Company agreed
13 to a voluntary suspension of its Certificate of Authority. On June 26, 2013, the Company
14 filed a run-off plan with the Nevada Division of Insurance to begin the process of closing down
15 operations.

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

22 On June 12, 2014, Commissioner Kipper as Permanent Receiver of the Company
23 retained David E. Wilson as Receivership Manager. The Receivership Manager was
24 authorized to retain the services of Scott Pearce of Regulatory Services Group (RSG) as his
25 Receivership Supervisor, and other staff of RSG as necessary. As provided for by the
26 Permanent Receivership and Liquidation Order, the Receiver and Receivership Manager are
27 authorized to conduct the business of the Company and to administer its affairs for the
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1 protection of all secured creditors, insureds, policyholders, and general creditors.

2 **II. RECEIVERSHIP ADMINISTRATION**

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

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

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

18 **B. Policyholder Related Claims**

19 As of this Third Status Report, the Company has one claim from its sole insured, the
20 Colorado Brain and Spine Institute (the "CBSI"). The Receivership Manager believes that the
21 one claim constitutes the entirety of PBR's policyholder claim liability under NRS
22 696B.420(1)(b). The Company insured CBSI for \$1 million in indemnity coverage. A lawsuit
23 associated with the claim was filed on July 28, 2012, in Douglas County District Court, in the
24 State of Colorado, case number 12CV1466 (the "Lawsuit"). The costs of defense of the
25 Lawsuit continue to be paid directly by the named Defendant in the Lawsuit who is an insured
26 and is covered under the indemnity policy issued by PBR to CBSI. As reported in prior status
27 reports to the Court, under the terms of CBSI's indemnity insurance policy, the insured/named
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1 Defendant retains the exclusive rights to compromise or settle the Lawsuit associated with the
2 pending claim. On October 8, 2014, mediation commenced in conjunction with the Lawsuit
3 where both counsel for the insured/named Defendant and Plaintiff participated together with
4 the assistance of a mediating Judge in an effort to compromise and/or settle the litigated
5 dispute. Subsequently, after weeks of continued negotiations, the insured/named Defendant
6 and the Plaintiff entered into a formal settlement agreement on December 10, 2014. As part
7 of the settlement terms, the insured Defendant doctor stipulated to the entry of judgment in
8 favor of the Plaintiff in the principal amount of \$1,000,000 with the proviso that the Plaintiff not
9 execute against the insured Defendant doctor but execute only against the proceeds assigned
10 to the liquidation claim of the Defendant doctor, an approved claim of \$1 million.

11 As a result of the settlement and stipulation of judgment, the Receivership Manager,
12 through RSG, prepared and sent a demand to both reinsurers seeking recovery of \$950,000
13 in reinsurance proceeds. The Receivership Manager confirmed receipt of the reinsurance
14 proceeds on December 29, 2014.

15 In light of the settlement of the Lawsuit together with the collection of reinsurance
16 proceeds, the Receivership Manager immediately will develop a recommendation to the
17 Receiver seeking to distribute certain funds to the insured and pay expenses associated with
18 any remaining administrative requirements to resolve and close the PBR estate. Given the
19 level of policyholder obligation coupled with the limited assets in the PBR estate, the
20 Receivership Manager will need to evaluate the feasibility and value of conducting a
21 comprehensive "proof of claim" process whereby notices will be sent to all known creditors of
22 the company instructing them on the procedure by which to submit claims against the
23 Company. Before commencing any "proof of claim" process and incurring the expenses to do
24 so, the Receivership Manager will estimate the likely costs associated with the remaining
25 administrative work necessary to close the PBR estate and payout as much of the \$1,000,000
26 policy obligation as possible.

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1 **C. Reinsurance**

2 The Receivership Manager has confirmed the Company's reinsurance program is
3 comprised of two contracts liable for up to \$950,000 in reinsurance coverage in excess of the
4 Company's \$50,000 loss retention. The Receivership Manager has billed and collected the
5 entire \$950,000 in reinsurance proceeds upon execution of the settlement of the Lawsuit.

6 **D. Records and Assets Control**

7 The Receivership Manager is in control of all known books and records of the
8 Company. The majority of the Company records are maintained in electronic form. The
9 Receivership Manager has made contact with most, all-identified service providers and
10 consultants working on behalf of the Company at the time of the appointment of the Receiver.
11 The Receivership Manager has set up a secure web-based location to continue to receive any
12 further records or information related to the Company.

13 The Receivership Manager has full control and authority over the Company's sole bank
14 account at Union Bank.

15 **E. Financial Analysis**

16 As of December 31, 2014, the Company had cash of \$1,082,883, and the Receivership
17 Manager is unaware of any other recoverable assets associated with the PBR estate. The
18 Company has a single policy-level claim and pre-liquidation service provider expense liabilities
19 in excess of \$1,200,000. The Receiver has incurred approximately \$56,802 in operating
20 expenses from the June 2014 inception of the receivership through November 2014.

21 Based on the financial condition of the Company and the recent resolution of
22 the Lawsuit, the Receiver will need additional time to determine the administrative
23 requirements and estimated costs to close the PBR estate and to make a material payment
24 under PBR's \$1,000,000 policy obligation. Should the Receiver determine the Company's
25 policy obligations exceed available cash, the Receiver will petition this Court to modify the
26 "proof of claim" process to avoid unnecessary administrative expense.

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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.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document, *Third Status Report*, filed in this case 14-OC-00114-1B, does not contain the personal information of any person

DATED: January 8, 2015

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:

Scott Pearce
Regulatory Services Group
Receivership Supervisor

Respectfully submitted by:

ADAM PAUL LAXALT
Attorney General

By:

RICHARD PAILI YIEN
Deputy Attorney General
Nevada Bar No. 13035
100 N. Carson St
Carson City, NV 89701
P: (775) 684-1129
Email: ryien@aq.nv.gov

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 9th day of January 2015, I filed a copy of the foregoing **THIRD 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, 26th 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