

COPY

1 3645
2 ADAM PAUL LAXALT
3 Attorney General
4 RICHARD PAILI YIEN
5 Deputy Attorney General
6 Nevada Bar No. 13035
7 100 North Carson Street
Carson City, NV 89701-4717
(775) 684-1129
(775)684-1156(fax)
Email: ryien@ag.nv.gov
Attorney for the Division of Insurance

REC'D & FILED
2015 JUL -8 PM 2:17
SUSAN MERRIWETHER
BY C. GRIBBLE CLERK
DEPUTY

Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717

9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **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)
Domiciled Association Captive Insurance)
Company,)
20 Defendant)

21 **FIFTH STATUS REPORT**

22 Scott J. Kipper, Commissioner of Insurance (the "Commissioner") for the State of
23 Nevada in his capacity as Permanent Receiver of Physicians Benefit Resources Risk
24 Retention Group, Inc. ("PBR" or the "Company"), and Regulatory Services Group ("RSG"),
25 Receivership Manager of PBR, files this Fifth Status Report in the above-captioned
26 receivership.

27 / / /

28 / / /

I. INTRODUCTION AND HISTORICAL BACKGROUND

PBR is a captive insurance company operating as a risk retention group, 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. In its history, it was 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) as his Receivership Supervisor, and other staff of RSG as necessary. As provided for by the Permanent Receivership and Liquidation Order, the Receiver and Receivership Manager are

1 authorized to conduct the business of the Company and to administer its affairs for the
2 protection of all secured creditors, insureds, policyholders, and general creditors.

3 II. RECEIVERSHIP ADMINISTRATION

4 A. Notices of Receivership and Notification to Interested Parties

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

10 The Receivership Manager published national legal notice of the liquidation proceeding
11 and proof of claim process on May 15, 2015, in the Wall Street Journal.

12 The Receivership Manager also provided formal notice of the receivership, together
13 with a certified copy of the permanent receivership and liquidation order, to Laurence Mohn
14 (CFO, COO, and Director of the Company), Keith Mohn, Dr. John Paul Elliott (a board
15 member of the Company and sole owner of Colorado Brain and Spine institute), Richard
16 Staub, Esq. (counsel for the Company), as well as all known reinsurers, brokers, reinsurance
17 intermediaries, professional service providers, and any other known stakeholders to the
18 Company.

19 B. Proof of Claims Process

20 The Receivership Manager mailed legal notice together with Proof of Claims ("POC")
21 packets to all known creditors to the Company on May 15, 2015. The notice advises creditors
22 of the November 15, 2015, claims bar date. In addition to the legal mailing, the Receivership
23 Manager published formal notice of the POC process and claims bar date in the May 15,
24 2015, edition of the Wall Street Journal's national distribution. As of this Fifth Status Report,
25 the Receivership Manager has received three returned POC's with an indication that a fourth
26 is to be filed. The four claims are: (1) for the residual \$50,000 policyholder class claim (priority
27 b) in the Johnson v. Cho matter, (2) the Nevada Commissioner's claim for unpaid pre-
28 liquidation licensure of \$550 (priority e), (3) Attorney Staub's unpaid invoices which doesn't

1 have a claimed amount on the POC but has less than \$6,000 in supporting billings (priority g),
2 and (4) a request for a POC from a shareholder but not yet filed (priority l).

3 **C. Policyholder Related Claims**

4 As of this Fifth Status Report, the Company essentially has addressed the one claim
5 from its sole insured, the Colorado Brain and Spine Institute (the "CBSI"). The Receivership
6 Manager believes that the resolution of the one claim constitutes the entirety of PBR's
7 policyholder claim liability under NRS 696B.420(1)(b).

8 On February 19, 2015 the Court granted an Order Approving Distribution of \$950,000
9 immediately in class (b) claims to the third party beneficiary Michael Johnson, prior to
10 payment in full of class (a) claims. The order further authorized the Receivership Manager to
11 retain \$50,000 of the approved \$1,000,000 policy liability CBSI Class (b) Claim to ensure that
12 the receivership estate has sufficient assets to complete all necessary administrative
13 requirements to properly wind up and close the PBR receivership estate.

14 The \$950,000 has been confirmed as paid, and \$50,000 remains as the only
15 policyholder-level liability of the estate.

16 **D. Reinsurance**

17 The Receivership Manager has billed and collected the entire \$950,000 in reinsurance
18 proceeds due the PBR receivership estate. The Receivership Manager does not anticipate
19 any further reinsurance recoveries.

20 **E. Records and Assets Control**

21 The Receivership Manager is in control of all known books and records of the
22 Company. The majority of the Company records are maintained in electronic form. The
23 Receivership Manager has made contact with all, known service providers and consultants
24 working on behalf of the Company at the time of the appointment of the Receiver. The
25 Receivership Manager has set up a secure web-based location to continue to receive any
26 further records or information related to the Company.

27 **F. Financial Analysis**

28 As of June 30, 2015, the Company held cash of \$92,138, and the Receivership

1 Manager is unaware of any other recoverable assets associated with the PBR estate. The
2 Company has a single \$50,000 policy-level, class (b) claim remaining to be paid and
3 estimates pre-liquidation service provider expense liabilities to be in excess of \$200,000. The
4 Receiver has incurred approximately \$163,949 in class (a) administration expenses from the
5 June 2014 inception of the receivership proceeding through May 31, 2015. Additionally, the
6 Receivership Manager has distributed \$950,000 towards the payment of the receivership
7 estate's \$1 million in class (b) policyholder liability. The Receivership Manager, working with
8 Langwasser and Associates, filed the 2014 Federal Tax Return on behalf of the receivership
9 estate. There were no estimated taxes due.

10 The Receivership Manager had a receipts-and-disbursements' review performed by a
11 third-party vendor for all amounts received and paid by the receivership estate from the date
12 of the liquidation, June 17, 2014, through December 31, 2014. The review was performed to
13 determine whether the receipts and disbursements of the receivership were properly
14 supported and accounted for. The review report concluded that all invoices and expenses
15 were properly supported and accounted for and no findings were reported.

16 Based on the resolution of the Lawsuit, the costs of administration incurred to date,
17 coupled with the anticipated, administrative expenses necessary to properly close the
18 receivership proceeding, the Receivership Manager may seek the court's approval to
19 discontinue the POC process. The basis for discontinuing the current POC process is to
20 place the receivership estate in the best possible position to pay the final \$50,000 in class (b)
21 policyholder claim liability and close the estate. While there never was a substantial amount
22 of money estimated to be available for distribution to remaining creditors, the receivership
23 expenses incurred to date: (1) to actively facilitate the resolution of the policy claim; (2) to
24 collect the resulting reinsurance; and (3) to obtain court approval and distribute the
25 reinsurance proceeds has exhausted assets more quickly than originally projected. The
26 receivership estate still will have costs associated with other requirements to properly shut the
27 estate (such as filing tax returns) and must ensure sufficient funds are reserved to do so.

28 / / /

III. CONCLUSION

In compliance with the Court's instructions for a status report regarding the affairs of the Company, the Receivership Manager submits this 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, *Fifth Status Report*, filed in this case 14-OC-00114-1B, does not contain the personal information of any person

DATED: July 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 PAILLYIEN
Deputy Attorney General
Nevada Bar No. 13035
100 N. Carson St
Carson City, NV 89701
P: (775) 684-1129
Email: rpvien@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 8th day of July 2015, I filed a copy of the foregoing **FIFTH 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

Anne Goldby
An Employee of the
Office of the Attorney General