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DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE, IN  
HER OFFICIAL CAPACITY AS  
STATUTORY RECEIVER FOR  
DELINQUENT DOMESTIC INSURER,

Plaintiff,

vs.

LANCET INDEMNITY RISK  
RETENTION GROUP, INC., a Nevada  
Domiciled Association Captive Insurance  
Company,

Defendant.

Case No. A-19-791409-B

Dept. No. 16

**THIRD STATUS REPORT**

COMES NOW, Commissioner of Insurance and Receiver, Barbara D. Richardson,  
and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”), and files this quarterly  
Status Report (“Report”) in the above-captioned receivership. In accordance with the  
orders of this Court and the Nevada Revised Statutes (“NRS”) Chapter 696B, the Receiver  
makes this “true report[s] in summary form of the insurer’s affairs under the receivership  
and of progress being made in accomplishing the objectives of the receivership.” NRS  
696B.290(7).

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1 **I. INTRODUCTION**

2 Lancet Indemnity Risk Retention Group (“Lancet” or the “Company”) is an  
3 association captive insurance company organized under the insurance laws of Nevada and  
4 the Liability Risk Retention Act of 1986. Lancet received its Amended Certificate of  
5 Authority on November 19, 2008, and operates under the authority of NRS Chapter 694C.  
6 Lancet was focused in the medical professional liability line, and was formed to insure the  
7 medical professional liability of its physician and medical group members.

8 Pursuant to NRS 679A.160, Lancet is subject to Nevada laws in Chapters 694C and  
9 695E that pertain to captive insurers (as “captive insurer” is defined in NRS 694C.060) and  
10 risk retention groups (as “risk retention group” is defined in NRS 695E.110) that have a  
11 Certificate of Authority from the Division of Insurance. Lancet is considered an association  
12 captive insurer (as “association captive insurer” is defined in NRS 694C.050). As a risk  
13 retention group (“RRG”), Lancet is subject to the federal Liability Risk Retention Act of  
14 1986. RRGs domiciled in Nevada do not participate in the Nevada Guaranty Association.  
15 Pursuant to NRS 695E.140(1)(a), Lancet is also subject to all laws that pertain to  
16 traditional liability insurers (with exceptions given in Bulletin 14-008).

17 At the outset of the receivership, Lancet owned minimal personal property, had no  
18 office lease of its own, and only two employees. Lancet’s business was primarily conducted  
19 through third-party contractors,<sup>1</sup> such as Tampa Bay Health Solutions, LLC (management  
20 and policyholder services), Western Litigation, Inc. (claims administrator), and Risk  
21 Services (accounting and auditing services). The Company also provided in-house premium  
22 financing services for a number of its policies.

23 On March 11, 2019, the Company consented to receivership by a letter from its  
24 President and Board of Directors to the Commissioner requesting that Lancet be placed  
25 into receivership. The Commissioner filed her Verified Petition for Appointment of

26 \_\_\_\_\_  
27 <sup>1</sup> Per the “About Us” page on the Company’s web site (prior to receivership):  
28 “Domiciled in Nevada, Lancet Indemnity is a Physician Owned and Directed Professional  
Liability Insurance carrier that utilizes professional Insurance Executives for the  
underwriting, development and implementation process of our several coverage options.”

1 Commissioner as Receiver and Other Permanent Relief on March 19, 2019. As detailed in  
2 the petition, Lancet qualified for receivership based on several criteria and Lancet was in  
3 a very hazardous financial condition. On April 12, 2019, this Court entered its Permanent  
4 Injunction and Agreed Order Appointing Commissioner as Permanent Receiver of Lancet  
5 Indemnity Risk Retention Group (the “Permanent Receivership Order”). Barbara D.  
6 Richardson, Commissioner of Insurance (“Commissioner”), in her capacity as Receiver for  
7 Lancet, appointed the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy Receiver  
8 of the Companies. The “Receiver” and “Special Deputy Receiver” are referred to collectively  
9 herein as the “Receiver.”

10 In brief, the Permanent Receivership Order establishes the following key points for  
11 the initial phase of the receivership:

- 12 1. that all evidences of coverage, insurance policies, and contracts of insurance  
13 are to be canceled effective on April 30, 2019, unless the Receiver determines  
14 that any such contracts should be canceled as of an earlier date;
- 15 2. that the Receiver may impose a full suspension on all disbursements owed by  
16 Lancet, including insurance policy disbursements, and costs related to the  
17 defense or adjudication of insurance policy claims;
- 18 3. that the receivership court has exclusive jurisdiction over all matters  
19 pertaining to Lancet and all persons are enjoined from commencing, bringing,  
20 maintaining, or further prosecuting any action at law, suit in equity,  
21 arbitration, or special or other proceeding against the Company, Receiver, or  
22 Special Deputy Receiver;
- 23 4. that the Receiver is vested with exclusive title both legal and equitable to all  
24 of Lancet’s property wherever located, to administer under the general  
25 supervisions of the Court;
- 26 5. that the Receiver may change to her own name the name of any of Lancet’s  
27 accounts, funds, or other property or assets, held with any bank, savings and  
28 loan association, other financial institution, or any other person, wherever

1 located, and may withdraw such funds, accounts, and other assets from such  
2 institutions or take any lesser action necessary for the proper conduct of the  
3 receivership; and

- 4 6. that the Receiver is authorized to establish a receivership claims and appeal  
5 procedure for all receivership claims. The receivership claims and appeals  
6 procedures shall be used to facilitate the orderly disposition or resolution of  
7 claims or controversies involving the receivership or the receivership estate.

## 8 **II. RECEIVERSHIP ADMINISTRATION**

### 9 **A. Notice of Receivership**

10 The Receiver previously distributed notices of the receivership to all interested  
11 parties of Lancet (*i.e.*, policyholders, known creditors, relevant government agencies *inter*  
12 *alia*) that could be located in the available company records. Cancellation endorsements  
13 were sent to all active insureds and their brokers which included information about the  
14 receivership and its impact on return premium and tail coverage. The Receiver has since  
15 been making additions to the Lancet notice list, as parties contact the receivership staff  
16 with their inquiries. The Receiver has worked to improve the mailing lists provided by  
17 Lancet and its vendors at the outset of the receivership and will continue to do so  
18 throughout the receivership.

19 The Receiver has recently filed a Motion for Instructions seeking the Court's  
20 approval of proposed notice procedures in the receivership going forward, and particularly  
21 as relates to notices regarding any court-approved procedures and deadlines for the filing  
22 of claims in the estate.

23 The Permanent Receivership Order stayed proceedings against Lancet outside of  
24 this Court, but it did not stay lawsuits against Lancet insureds. Due to Lancet's  
25 circumstances, Lancet policyholders have been required to pay for their own defense if they  
26 are able, and will be able to bring claims for reimbursement in the receivership once this  
27 Court has approved a claim procedure. Defense counsel for Lancet policyholders have been  
28

1 notified of the above as well, including the need to submit a claim in the receivership for  
2 any unpaid bills for their services.

3 The Receiver has pursued, and will continue to pursue, the stay or dismissal of  
4 litigation pending or filed against Lancet directly. Likewise, where Lancet has been  
5 ordered to appear in alternative dispute resolution forums, the Receiver has provided  
6 notice that Lancet cannot do so and that this Court (as the "Receivership Court") is the only  
7 appropriate forum for the resolution of claims against Lancet.

8 As the Receiver discovers additional interested parties, or receives inquiries, notice  
9 and information about the receivership will be provided as needed. Additionally, the  
10 Receiver periodically posts updates about the receivership on Lancet's web site at  
11 [www.lancetindemnity.com](http://www.lancetindemnity.com).

#### 12 **B. Claims Administration**

13 The Receivership Court has authorized the Receiver to establish a receivership  
14 claims and appeal procedure. The Receiver is drafting a procedure that is in keeping with  
15 the Nevada Revised Statutes that will (to the extent possible) also minimize harm to all  
16 interested parties. The proposed Receivership Claims and Appeal Procedure for all Lancet  
17 claims, and the required Proof of Claim form, will be submitted to this Court for approval  
18 once the above-mentioned Motion for Instructions on proposed notice procedures has been  
19 heard and ruled on by the Court. A hearing on the Motion for Instructions has been set for  
20 January 22, 2020.

21 Once a claim procedure has been approved by the Court, third-party claims  
22 administrator ("TPA") Claims Resource Management, Inc. ("CRMI"), will assist the  
23 Receiver in the evaluation and adjudication of policy claims against the estate. CRMI is  
24 currently in the process of reviewing the claims that may be eligible for reinsurance  
25 coverage and assisting the SDR with any attendant reporting needed to submit claims for  
26 coverage.

27 The Receiver, with the aid of CRMI, has developed a procedure for responding to loss  
28 run and credentialing requests. These reports may be needed by insureds to satisfy their

1 work requirements and to obtain new insurance policies. At this time, the SDR can only  
2 provide loss run and claim history information through April 17, 2019, which was the date  
3 of the last loss run produced by Lancet’s pre-receivership third-party claims administrator.  
4 CRMI has advised the Receiver that the claim records received from Lancet and its prior  
5 TPA may be incomplete. The Lancet estate has very limited assets, and based on costs for  
6 the receivership, the Receiver is unsure at this time whether Lancet will be able to provide  
7 complete and current-date loss run and credentialing reports. It is therefore necessary to  
8 include a disclosure on the loss run reports being provided to policyholders that Lancet is  
9 in receivership and that the SDR has not independently verified the completeness and  
10 accuracy of the claim information.

11 The Receiver has also received a number of requests for documents and information  
12 since the outset of the receivership.<sup>2</sup> Responding to such requests can be very costly for the  
13 estate as considerable time and resources must be dedicated to providing a proper response  
14—including a full search of the Lancet records, and an analysis of privacy and privilege  
15 matters. It was necessary to establish a streamlined procedure to conserve costs and estate  
16 resources for the benefit of all creditors of the estate. The Receiver therefore requires that  
17 all requests for Lancet documents and/or information must be made by serving a subpoena  
18 upon Lancet via its commercial registered agent, CSC. The Receiver has provided the  
19 contact information for CSC to inquiring parties. The Receiver will evaluate subpoenas  
20 received from CSC and will send a response in writing to the inquiring party regarding the  
21 receivership’s ability to provide the requested information, the anticipated timeframe for  
22 response, and the associated fee. The Receiver has determined that a non-refundable \$200  
23 fee is appropriate for responding to basic policy document requests, and that a non-  
24 refundable \$1000 fee should be assessed for any request for claim records or any other  
25 request that may take substantial time and resources to fulfill. These fees were established

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27 <sup>2</sup> Typical inquiries, for example, might request “the entire claim file for this matter  
28 including all communications and adjuster notes” or “all policy documents, including all  
endorsements and underwriting materials, for all my policies held with Lancet dating back  
to 2014.”

1 based on conservative and fair estimates of the time needed to prepare such responses and  
2 based on the hourly rates of receivership staff. The Receiver reserves the right to increase  
3 these fees for any request that is overly broad or that necessitates a review of voluminous  
4 document(s). Once the fee is received from the inquiring party, and not before, receivership  
5 staff will begin working to prepare the responsive material.

6 The Receiver has previously reported on the matter of *Mora v. Lancet Indemnity*  
7 which was pending appeal at the outset of the receivership. The Receiver has  
8 communicated, and continues to communicate, about this claim with Lancet's reinsurers,  
9 seeking coverage and payment for amounts owed to Lancet by reinsurers.

### 10 **C. Third-Party Support Services**

11 Claims Resource Management, Inc. ("CRMI") is the third-party claims administrator  
12 for the receivership estate. Please refer to section (B), *supra*, to read about CRMI's work  
13 for the estate. PALOMAR FINANCIAL, LC ("Palomar"), an affiliated company of the SDR,  
14 performs financial and technical administrative support services for Lancet in receivership.  
15 Palomar is being used to save costs for the receivership estate, centralize data and  
16 information, and facilitate the receivership's administration. Merlinos & Associates  
17 ("Merlinos") is an actuarial firm that has been selected to assist the receivership estate as  
18 described further below in section E ("Actuarial Reports").

### 19 **D. Records & Property**

20 Lancet was a "virtual company" (*i.e.*, paperless). The Receiver has, however, taken  
21 possession of Lancet's hard drives and server equipment. The Receiver is reviewing the  
22 electronic records of the Company. The Receiver is maintaining access, for the time being,  
23 to the cloud-based policy database (*i.e.*, the Epic system, owned by Applied Systems, Inc.)  
24 and premium financing software (*i.e.*, the Input 1 system). The Receiver will terminate  
25 these systems once it is certain that they are no longer needed.

26 Lancet employees advised that Risk Services, the Company's former captive  
27 manager, is the source of accounting records of the Company. Risk Services provided what  
28 it believed to be the full extent of its records relating to Lancet, and the Receiver continues

1 its evaluation of these materials. The Receiver has made additional specific requests of  
2 Risk Services, where noticeable gaps in the information have arisen, and has received  
3 additional Lancet records (*e.g.*, missing premium bordereaux, etc.) in response. The  
4 Receiver will continue to evaluate the available records, and will make requests as needed  
5 for missing information, if any.

#### 6 **E. Actuarial Reports**

7 Merlinos is an actuarial firm that has been selected to assist the estate by evaluating  
8 the policy and claims information for Lancet to provide a projection of the current and  
9 future claims liabilities of the estate. Merlinos has also evaluated Lancet's liability for the  
10 return premium owed for tail coverage policies that were terminated by the receivership  
11 order cancelling such insurance coverages. Lancet policyholders with tail coverage were  
12 informed that the Receiver would assign a value to the lost tail coverage (*i.e.*, the return  
13 premium owed on the terminated tail coverage) so that such policyholders could file a claim  
14 against the estate for the terminated tail coverage. Upon initial evaluation by Merlinos,  
15 many of the tail policies have minimal or zero return premium owing.<sup>3</sup> Another option, in  
16 lieu of assigning a cash value for the tail policy return premiums, may be to extend the tail  
17 reporting period beyond the current April 30, 2019, coverage end date through the  
18 receivership Claim Filing Deadline that is yet to be established by the Court (or the actual  
19 end of tail coverage, whichever occurs first). The Receiver will present these options in  
20 greater detail, along with a recommended course of action, in the Receiver's motion  
21 requesting the Court's approval of a proposed claim procedure and claim filing deadline.  
22 As discussed above, this motion will be filed in the near future after the Court's ruling on  
23 the Receiver's Motion for Instructions.

#### 24 **F. Reinsurance**

25 The Receiver is working with Lancet's reinsurance brokers, Tyser & Co. Ltd.  
26 ("Tysers") (formerly known as Integro Insurance Brokers Limited) to evaluate Lancet's

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28 <sup>3</sup> For instance, a number of the policies offered complimentary tail coverage for  
retiring physicians – with no premium associated with the tail coverage.



1 reinsurance coverage and reinsured claims. After a number of commutation agreements  
2 were executed in July and August of 2018, there appeared to be just one reinsurer  
3 remaining on risk for the current policy year for one excess of loss reinsurance contract (the  
4 “XOL”). The Receiver, and Tysers, will continue to report claims on the active XOL  
5 contract. The Receiver is also working with Tysers on potential reinsurance recoveries  
6 related to the *Mora vs. Lancet Indemnity* matter that is described above in Section B of this  
7 report. As noted above, CRMI is working to update Lancet’s claim files, which includes a  
8 focus on those claims that involve additional reinsurance claim reporting. Lancet’s  
9 reinsurers have requested updates of claims information, and the Receiver will continue to  
10 work with CRMI and Tysers to prepare the necessary reinsurance reporting on an ongoing  
11 basis.

#### 12 **G. Receivership Assets and Liabilities**

13 The Receiver has been gathering information and evaluating the assets and  
14 liabilities of Lancet. A further liability analysis will be updated when the company’s claims  
15 evaluation is completed with the assistance of outside parties who are now performing  
16 claims and actuarial services. On September 11, 2019, the Court entered its Order  
17 Granting Receiver’s Motion to Approve Fees and Rates Filed on July 24, 2019. Pursuant  
18 to this Order, the Receiver has included an informational copy, as Exhibit A to this Third  
19 Status Report, of the invoices paid to the SDR and other receivership consultants since the  
20 last status report to this Court.<sup>4</sup> Below is an overview of some key financial matters for the  
21 Lancet receivership.

22 As of November 30, 2019, the approximate liquid assets of the Company were as  
23 follows:

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25 <sup>4</sup> The *in camera* materials, Exhibit C, are being submitted in a separate envelope  
26 that reflect paid invoices. Certain billings submitted to the Court are appropriate for *in*  
27 *camera* review (as opposed to being made part of a public filing). In this regard, courts  
28 have held that the bills of legal counsel and experts may be withheld from legal discovery  
and are not subject to legal disclosure, as this information may provide indications or  
context concerning potential litigation strategy and the nature of the expert services being  
provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL,

1 a. Cash in bank total: \$319,754.86

2 b. Investments fair market value total: \$1,698,456.24

3 Cash flow reports of Lancet for September through November 2019 are attached as  
4 Exhibit B.

5 **III. CONCLUSION**

6 In compliance with this Court's instructions for a status report regarding the affairs  
7 of the Company, the Receiver has submitted the aforementioned status report and requests  
8 that the Court approve this Third Status Report and the actions taken by the Receiver.

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17 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged  
18 because they reveal a party's strategy and the nature of services provided); *Fed. Sav. &*  
19 *Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not  
20 fee information revealed counsel's mental impressions concerning litigation strategy).  
21 Other courts that have 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).

22 The *in-camera* review should apply not only to documentation concerning attorney  
23 fees, but it also extends to "details of work revealed in [an] expert's work description [which]  
24 would relate to tasks for which she [or he] was compensated[,]" a situation which is  
25 "analogous to protecting attorney-client privileged information contained in counsel's bills  
26 describing work performed." *See DaVita Healthcare Partners, Inc. v. United States*, 128  
27 Fed. Cl. 584, 592-93 (2016); *see also Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (4th Cir.  
28 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 DATED: January 6, 2020.

2 Respectfully submitted:

3 Barbara D. Richardson, Commissioner of  
4 Insurance of the State of Nevada, in her  
5 Official Capacity as Statutory Receiver of  
6 Delinquent Domestic Insurer

7 By: /s/ CANTILO & BENNETT, L.L.P.  
8 Special Deputy Receiver  
9 By Its Authorized Representative  
10 Mark F. Bennett

11 Respectfully submitted:

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