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16 DISTRICT COURT  
17 CLARK COUNTY, NEVADA

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

21 Plaintiff,

22 vs.

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

26 Defendant.

Case No. A-19-791409-B  
Dept. No. 16

SIXTH STATUS REPORT

1 **SIXTH STATUS REPORT**

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

8 **I. INTRODUCTION**

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

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

22 At the outset of the receivership, Lancet owned minimal personal property, had no office lease  
23 of its own, and only two employees. Lancet’s business was primarily conducted through third-party  
24 contractors,<sup>1</sup> such as Tampa Bay Health Solutions, LLC (management and policyholder services),  
25

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 Western Litigation, Inc. (claims administrator), and Risk Services (accounting and auditing services).  
2 The Company also provided in-house premium financing services for a number of its policies.

3 On March 11, 2019, the Company consented to receivership by a letter from its President and  
4 Board of Directors to the Commissioner requesting that Lancet be placed into receivership. The  
5 Commissioner filed her Verified Petition for Appointment of Commissioner as Receiver and Other  
6 Permanent Relief on March 19, 2019. As detailed in the petition, Lancet qualified for receivership based  
7 on several criteria and Lancet was in a very hazardous financial condition. On April 12, 2019, this Court  
8 entered its Permanent Injunction and Agreed Order Appointing Commissioner as Permanent Receiver  
9 of Lancet Indemnity Risk Retention Group (the “Permanent Receivership Order”). Barbara D.  
10 Richardson, Commissioner of Insurance (“Commissioner”), in her capacity as Receiver for Lancet,  
11 appointed the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy Receiver of the Companies.  
12 The “Receiver” and “Special Deputy Receiver” are referred to collectively herein as the “Receiver.”

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

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

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

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

8 On February 25, 2020, the Receiver filed a consolidated motion for a Final Order Placing Lancet  
9 Indemnity Risk Retention Group, Inc. into Liquidation, and for a Final Order Setting a Claims Filing  
10 Deadline and Granting Related Relief (the “Consolidated Motion”). The Consolidated Motion was  
11 heard and granted on April 1, 2020. On April 9, 2020, the Court entered its Final Order Placing Lancet  
12 into Liquidation (the “Liquidation Order”) and its Final Order Setting Claims Filing Deadline for Lancet  
13 and Related Relief (the “Claims Order”). The Claims Order established a Claims Filing Deadline of  
14 April 1, 2021, and procedures for filing claims against Lancet, which is discussed further below. The  
15 Liquidation Order also granted the Receiver’s request to formally place Lancet into liquidation effective  
16 on April 9, 2020.

## 17 **II. RECEIVERSHIP ADMINISTRATION**

### 18 **A. Notice of Receivership**

19 The Receiver initially distributed notices regarding the Permanent Receivership Order to all  
20 interested parties of Lancet, as detailed in the Receiver’s prior quarterly status reports. On February 5,  
21 2020, the Court entered its Order Regarding Motion for Instructions Including Notice Requirements (the  
22 “Notice Order”). Pursuant to the Notice Order, the Receiver has given notice (as detailed further in the  
23 Fourth Status Report) to interested parties of the Liquidation Order, the Claims Order, and the approved  
24 procedures for filing claims against Lancet in receivership. Future notices about Lancet’s receivership  
25 will be provided to interested parties in accordance with the Court’s Notice Order.

### 26 **B. Claims Administration**

27 The Receiver’s third-party claims administrator (“TPA”), Claims Resource Management, Inc.  
28 (“CRMI”), is assisting the Receiver in the evaluation and adjudication of incoming proofs of claim

1 (“POC”). Fifty-three (53) POC submissions have been received to date. A number of these were  
2 initially deemed incomplete or defective, and the SDR has contacted these claimants to provide them  
3 with the opportunity to revise or re-submit their POCs. There are currently just two (2) POCs that cannot  
4 be processed due to being incomplete and/or defective in some way. The SDR will communicate with  
5 these claimants in order to correct the issues so that the POCs can be processed.

6 The Receiver has been contacted by several interested parties regarding concerns relating to  
7 obtaining the requisite notarization on the POC form due to COVID-19 concerns. In response to the  
8 same, an alternate signature block on the approved POC form is being made available to claimants  
9 pursuant to NRS 53.045. This will allow claimants to attest to the truthfulness of the information  
10 contained therein without the need for a notary to be present. The Receiver continues to assess issues  
11 related to COVID-19 and is working to minimize the affect the pandemic has on the claims process.

12 CRMI is also reviewing all claims designated “open” by the prior TPA at the outset of  
13 receivership, bringing those open claim files up to date in anticipation of POC filings in the receivership,  
14 and responding to loss run and credentialing requests to the extent possible given the limited resources  
15 of the Lancet estate.<sup>2</sup>

16 The Receiver has previously reported on the matter of *Mora v. Lancet Indemnity* which was  
17 pending appeal at the outset of the receivership. A formal demand has been presented to Lancet’s  
18 reinsurers concerning this claim. The Receiver continues to communicate with counsel for Lancet’s  
19 reinsurers, seeking coverage and payment of the reinsurance coverage amounts owed to Lancet by its  
20 reinsurers.

### 21 C. Third-Party Support Services

22 CRMI is the third-party claims administrator for the receivership estate. Please refer to section  
23 (B), *supra*, to read about CRMI’s work for the estate. PALOMAR FINANCIAL, LC (“Palomar”), an  
24 affiliated company of the SDR, performs financial and technical administrative support services for  
25 Lancet in receivership. Palomar is being used to save costs for the receivership estate, centralize data

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26 <sup>2</sup> As previously reported, Lancet at this time can only provide loss run and claim  
27 history based on the available records of Lancet as of April 2019. Therefore, loss run  
28 reports provided by the SDR contain a disclosure regarding the completeness and accuracy  
of the same.

1 and information, and facilitate the receivership’s administration. Merlinos & Associates (“Merlinos”)  
2 is an actuarial firm that has been selected to assist the receivership estate as described further below in  
3 section E (“Actuarial Reports”).

4 The Receiver has received notice from time to time of lawsuits filed against Lancet in violation  
5 of the Court’s Permanent Receivership Order. The Receiver’s established procedure is to write to the  
6 parties involved to inform them of the injunctions of the Permanent Receivership Order, and to request  
7 a voluntary dismissal of Lancet from the matter. Thus far, the majority of counsel have been amenable  
8 to such requests. In limited cases and only when absolutely necessary, the Receiver will engage outside  
9 counsel to address ongoing or repeated violations of this Court’s orders. The Receiver has been required  
10 to engage outside counsel Frost Brown Todd in a Kentucky matter where Lancet was named as a third-  
11 party defendant. The court in that matter has denied Lancet’s Motion to Dismiss, and the Receiver is  
12 working with outside counsel to determine the best next steps in order to avoid the waste of Lancet’s  
13 assets in liquidation.

14 **D. Records & Property**

15 The Receiver is maintaining access, for the time being, to the cloud-based Lancet policy database  
16 (*i.e.*, the Epic system, owned by Applied Systems, Inc.) and premium financing software (*i.e.*, the Input  
17 1 system). The Receiver will terminate these systems once it is certain that they are no longer needed.

18 As previously reported, it does not appear that the Company kept complete and accurate claims  
19 records – and it has been necessary for the Receiver and/or CRMI to request records from third parties  
20 in an attempt to complete the claim files. Many files remain incomplete. The Receiver will continue to  
21 evaluate the available records and will continue to make requests as needed for missing information.

22 **E. Actuarial Reports**

23 Merlinos is an actuarial firm that has been selected to assist the estate by evaluating the policy  
24 and claims information for Lancet to provide a projection of the current and future claims liabilities of  
25 the estate. Merlinos has also evaluated Lancet’s liability for the return premium owed for tail coverage  
26 policies that were terminated by the receivership order cancelling such insurance coverages. Merlinos  
27 has completed a draft report on loss and loss expense reserves, gross of reinsurance, for Lancet as of  
28 April 30, 2019. The Receiver is working to review and finalize this report as of the filing of this Sixth

1 Status Report. A summary of the report will be provided with the next quarterly status report to the  
2 Court.

### 3 **F. Reinsurance**

4 The Receiver is working with Lancet's reinsurance brokers, Tyser & Co. Ltd. ("Tysers")  
5 (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet's reinsurance coverage and  
6 reinsured claims. After a number of commutation agreements were executed in July and August of  
7 2018, just one reinsurer remained on a small portion of insurance risk for one excess of loss reinsurance  
8 contract (the "XOL"), with most of the XOL reinsurance extinguished and released in 2018. The  
9 Receiver, and Tysers, will continue to report claims on the XOL contract for the small portion of  
10 insurance risk that remains covered. The Receiver will continue to work with CRMI and Tysers to  
11 prepare the necessary reinsurance reporting on an ongoing basis. Lancet also had an Awards Made  
12 reinsurance treaty, and the Receiver believes that it covers the above-referenced *Mora* claim. As noted  
13 above, the Receiver has separately submitted the *Mora* claim to Lancet's XOL and Awards Made  
14 contract reinsurers for their respective insurance coverages.

### 15 **G. Asset Recovery**

16 On March 4, 2019, the Receiver put the prior directors and officers ("D&O") of the company,  
17 and their professional liability and/or errors and omissions insurance carrier, on notice of prior bad acts  
18 and actionable claims of the Receiver resulting from pre-receivership errors, omissions, negligence, and  
19 misrepresentations. The Receiver presented a demand for payment to the insurance carrier for the claims  
20 described within the notice. The Receiver, with the assistance of outside counsel, is engaged in ongoing  
21 discussions with counsel for the D&O insurance carrier.

### 22 **H. Receivership Assets and Liabilities**

23 The Receiver has been gathering information and evaluating the assets and liabilities of Lancet.  
24 A further liability analysis will be updated when the company's claims evaluation is completed with the  
25 assistance of outside parties who are now performing claims and actuarial services. On September 11,  
26 2019, the Court entered its Order Granting Receiver's Motion to Approve Fees and Rates Filed on July  
27 24, 2019. Pursuant to this Order, the Receiver has included an informational copy, as Exhibit A to this  
28 Sixth Status Report, of the invoices paid to the SDR and other receivership consultants since the last

1 status report to this Court.<sup>3</sup> Below is an overview of some key financial matters for the Lancet  
2 receivership.

3 As of August 31, 2020, the approximate liquid assets of the Company were as follows:

- 4 a. Cash in bank total: \$57,432.34
- 5 b. Investments fair market value total: \$1,543,911.05

6 A cash flow report for August 2020 is attached as Exhibit B.

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13 <sup>3</sup> The *in camera* materials, Exhibit C, are being submitted in a separate envelope  
14 that reflect paid invoices. Certain billings submitted to the Court are appropriate for *in*  
15 *camera* review (as opposed to being made part of a public filing). In this regard, courts  
16 have held that the bills of legal counsel and experts may be withheld from legal discovery  
17 and are not subject to legal disclosure, as this information may provide indications or  
18 context concerning potential litigation strategy and the nature of the expert services being  
19 provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL,  
20 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged  
21 because they reveal a party’s strategy and the nature of services provided); *Fed. Sav. &*  
*Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not  
22 fee information revealed counsel’s mental impressions concerning litigation strategy).  
23 Other courts that have addressed this issue have recognized that the “attorney-client  
24 privilege embraces attorney time, records and statements to the extent that they reveal  
25 litigation strategy and the nature of the services provided.” *Real v. Cont’l Grp., Inc.*, 116  
26 F.R.D. 211, 213 (N.D. Cal. 1986).

27 The *in-camera* review should apply not only to documentation concerning attorney  
28 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 areas of law,”  
are protected from disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127,  
129 (9th Cir. 1992)).

1 **III. CONCLUSION**

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

5 DATED: October 6, 2020.

6 Respectfully submitted:

7 Barbara D. Richardson, Commissioner of  
8 Insurance of the State of Nevada, in her Official  
9 Capacity as Statutory Receiver of Delinquent  
10 Domestic Insurer

11 By: /s/ CANTILO & BENNETT, L.L.P.  
12 Special Deputy Receiver  
13 By Its Authorized Representative  
14 Mark F. Bennett

14 Respectfully submitted:

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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on the 6<sup>th</sup> day of October 2020, I filed the foregoing **Sixth Status Report** via Odyssey this Court’s electronic filing system. Parties that are registered with this Court’s EFS will be served electronically.

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