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13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

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

20 Plaintiff,

21 vs.

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

25 Defendant.

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

28 **SEVENTH STATUS REPORT**

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

1 **I. INTRODUCTION**

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

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

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

20 On March 11, 2019, the Company consented to receivership by a letter from its President and
21 Board of Directors to the Commissioner requesting that Lancet be placed into receivership. The
22 Commissioner filed her Verified Petition for Appointment of Commissioner as Receiver and Other
23 Permanent Relief on March 19, 2019. As detailed in the petition, Lancet qualified for receivership based
24 on several criteria and Lancet was in a very hazardous financial condition. On April 12, 2019, this Court
25 entered its Permanent Injunction and Agreed Order Appointing Commissioner as Permanent Receiver of

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

1 Lancet Indemnity Risk Retention Group (the “Permanent Receivership Order”). Barbara D. Richardson,
2 Commissioner of Insurance (“Commissioner”), in her capacity as Receiver for Lancet, appointed the firm
3 of CANTILO & BENNETT, L.L.P. as the Special Deputy Receiver of the Companies. The “Receiver” and
4 “Special Deputy Receiver” are referred to collectively herein as the “Receiver.”

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

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

1 On February 25, 2020, the Receiver filed a consolidated motion for a Final Order Placing Lancet
2 Indemnity Risk Retention Group, Inc. into Liquidation, and for a Final Order Setting a Claims Filing
3 Deadline and Granting Related Relief (the “Consolidated Motion”). The Consolidated Motion was heard
4 and granted on April 1, 2020. On April 9, 2020, the Court entered its Final Order Placing Lancet into
5 Liquidation (the “Liquidation Order”) and its Final Order Setting Claims Filing Deadline for Lancet and
6 Related Relief (the “Claims Order”). The Claims Order established a Claims Filing Deadline of April 1,
7 2021, and procedures for filing claims against Lancet, which is discussed further below. The Liquidation
8 Order also granted the Receiver’s request to formally place Lancet into liquidation effective on April 9,
9 2020.

10 **II. RECEIVERSHIP ADMINISTRATION**

11 **A. Notice of Receivership**

12 The Receiver initially distributed notices regarding the Permanent Receivership Order to all
13 interested parties of Lancet, as detailed in the Receiver’s prior quarterly status reports. On February 5,
14 2020, the Court entered its Order Regarding Motion for Instructions Including Notice Requirements (the
15 “Notice Order”). Pursuant to the Notice Order, the Receiver has given notice (as detailed further in the
16 previously submitted Fourth Status Report) to interested parties of the Liquidation Order, the Claims
17 Order, and the approved procedures for filing claims against Lancet in receivership. Future notices about
18 Lancet’s receivership will continue to be provided to interested parties in accordance with the Court’s
19 Notice Order.

20 **B. Claims Administration**

21 The Receiver’s third-party claims administrator (“TPA”), Claims Resource Management, Inc.
22 (“CRMI”), is assisting the Receiver in the evaluation and adjudication of incoming proofs of claim
23 (“POC”). Seventy-three(73) POC submissions have been filed with the SDR to date, claiming a total of
24 33.61 million dollars.² A number of these were initially deemed incomplete or defective, and the SDR
25 has contacted these claimants to provide them with the opportunity to revise or re-submit their POCs.
26 There is currently just one (1) POC that cannot be processed due to being incomplete and/or defective in

27
28 ² This total does not include one POC which was filed but subsequently withdrawn
by the claimant.

1 some way. The SDR will communicate with the claimant in order to correct the issue so that the POC
2 can be processed.

3 CRMI is also reviewing all claims designated “open” by the prior TPA at the outset of
4 receivership, bringing those open claim files up to date in anticipation of POC filings in the receivership,
5 and has responded to loss run and credentialing requests to the extent possible given the limited resources
6 of the Lancet estate.³

7 The Receiver has previously reported on the matter of *Mora v. Lancet Indemnity* which was
8 pending appeal at the outset of the receivership. A formal demand has been presented to Lancet’s
9 reinsurers concerning this claim. The Receiver continues to work with counsel for Lancet’s reinsurers
10 on a final resolution of claims related to the *Mora* claim case.

11 **C. Third-Party Support Services**

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

19 The Receiver has received notice from time to time of lawsuits filed against Lancet in violation
20 of the Court’s Permanent Receivership Order. The Receiver’s established procedure is to write to the
21 parties involved to inform them of the injunctions of the Permanent Receivership Order, and to request a
22 voluntary dismissal of Lancet from the matter. Thus far, the majority of counsel have been amenable to
23 such requests. In limited cases and only when absolutely necessary, the Receiver will engage outside
24 counsel to address ongoing or repeated violations of this Court’s orders. The Receiver has been required
25 to engage outside counsel Frost Brown Todd in a Kentucky matter where Lancet was named as a third-

26 ³ 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 party defendant. The court in that matter has denied Lancet’s Motion to Dismiss, and the Receiver is
2 working with outside counsel to determine the best next steps in order to avoid further costs for the Lancet
3 receivership estate.

4 **D. Records & Property**

5 The Receiver is maintaining access, for the time being, to the cloud-based Lancet policy database
6 (*i.e.*, the Epic system, owned by Applied Systems, Inc.). The Receiver will terminate these systems once
7 it is certain that they are no longer needed. The Receiver has terminated the premium financing software
8 (*i.e.*, the Input 1 system) in order to conserve costs, as the software was determined to no longer be
9 necessary.

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

14 **E. Actuarial Reports**

15 Merlinos is an actuarial firm that was selected to assist the estate by evaluating the policy and
16 claims information for Lancet to provide a projection of the current and future claims liabilities of the
17 estate. Merlinos also evaluated Lancet’s liability for the return premium owed for tail coverage policies
18 that were terminated by the receivership order cancelling such insurance coverages.

19 Merlinos has completed its actuarial reports on loss and loss expense reserves, gross of
20 reinsurance, for Lancet as of April 30, 2019, and December 31, 2019. The Receiver has finalized these
21 reports as of the filing of this Seventh Status Report. The claims data between the April and December
22 2019 actuarial reports did not change because the Receiver is still receiving and evaluating claims data
23 pursuant to the claims process. Updates to the Lancet claims data are not expected to occur until after the
24 claims’ deadline ends on April 1, 2021, which is when more complete claims data is expected to be finally
25 received by the Receiver for Lancet’s claimants and insureds. The executive summary below reflects the
26 actuarial claim reserve data as of April 30 and December 31, 2019.

	Gross Loss Reserves
Claims-Made Policies	\$14,341,366
Occurrence Policies	\$409,521
<u>AOE ⁴Reserve</u>	<u>\$180,000</u>
Gross Loss and LAE Reserves	\$14,930,887

F. Reinsurance

The Receiver is working with Lancet’s reinsurance brokers, Tyser & Co. Ltd. (“Tysers”) (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet’s reinsurance coverage and reinsured claims. After a number of commutation agreements were executed in July and August of 2018, just one reinsurer remained on a small portion of insurance risk for one excess of loss reinsurance contract (the “XOL”), with most of the XOL reinsurance extinguished and released in 2018. The Receiver, and Tysers, will continue to report claims on the XOL contract for the small portion of insurance risk that remains covered. The Receiver recently submitted claim billings and premium adjustment data to the XOL reinsurer. The Receiver anticipates making a reinsurance collection for Lancet on the XOL agreement, and will report on the same in further detail in the next status report. The Receiver will continue to work with CRMI and Tysers to prepare the necessary reinsurance reporting on an ongoing basis. Lancet also had an Awards Made reinsurance treaty, and the Receiver is working with reinsurer’s counsel on a final resolution of the above-referenced *Mora* claim.

G. Asset Recovery

On March 4, 2019, the Receiver put the prior directors and officers (“D&O”) of the company, and their professional liability and/or errors and omissions insurance carrier, on notice of prior bad acts and actionable claims of the Receiver resulting from pre-receivership errors, omissions, negligence, and misrepresentations. The Receiver presented a demand for payment to the insurance carrier for the claims

⁴ “AOE” means adjusting and other expense costs estimated for the future payment of claims.

1 described within the notice. The Receiver, with the assistance of outside counsel, is engaged in ongoing
2 discussions with counsel for the D&O insurance carrier.

3 **H. Receivership Assets and Liabilities**

4 The Receiver has been gathering information and evaluating the assets and liabilities of Lancet.
5 A further liability analysis will be updated when the company's claims evaluation is completed with the
6 assistance of outside parties who are now performing claims and actuarial services. On September 11,
7 2019, the Court entered its Order Granting Receiver's Motion to Approve Fees and Rates Filed on July
8 24, 2019. Pursuant to this Order, the Receiver has included an informational copy, as Exhibit A to this
9 Seventh Status Report, of the invoices paid to the SDR and other receivership consultants since the last
10 status report to this Court.⁵ Below is an overview of some key financial matters for the Lancet
11 receivership.

12 As of November 30, 2020, the approximate liquid assets of the Company were as follows:

13 ⁵ The *in camera* materials, Exhibit B, 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. &*
22 *Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not
23 fee information revealed counsel's mental impressions concerning litigation strategy).
24 Other courts that have addressed this issue have recognized that the "attorney-client
25 privilege embraces attorney time, records and statements to the extent that they reveal
26 litigation strategy and the nature of the services provided." *Real v. Cont'l Grp., Inc.*, 116
27 F.R.D. 211, 213 (N.D. Cal. 1986).

28 The *in-camera* review should apply not only to documentation concerning attorney
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 a. Cash in bank total: \$79,965.27

2 b. Investments fair market value total: \$1,406,439.31

3 A cash flow report for November 2020 is attached as Exhibit C.

4 **III. CONCLUSION**

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

8 DATED: this 23rd day of December 2020.

9 Respectfully submitted:

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

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

17 Respectfully submitted:

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