



1 SR
2 MARK E. FERRARIO, Bar No. 1625
3 KARA B. HENDRICKS, Bar No. 7743
4 GREENBERG TRAUERIG, LLP
5 10845 Griffith Peak Drive, Suite 600
6 Las Vegas, NV 89135
7 Telephone: (702) 792-3773
8 Facsimile: (702) 792-9002
9 Email: ferrariom@gtlaw.com
10 hendricksk@gtlaw.com
11 cowdent@gtlaw.com

12 *Attorneys for the Plaintiff*

13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

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

20 Plaintiff,

21 vs.

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

26 Defendant.

27 Case No. A-19-791409-B

28 Dept. No. 16

29 **EIGHTH STATUS REPORT**

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

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 Insurance Guaranty
15 Association. Pursuant to NRS 695E.140(1)(a), Lancet is also subject to all laws that pertain
16 to 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,¹ 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 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 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 On February 25, 2020, the Receiver filed a consolidated motion for a Final Order
9 Placing Lancet Indemnity Risk Retention Group, Inc. into Liquidation, and for a Final
10 Order Setting a Claims Filing Deadline and Granting Related Relief (the “Consolidated
11 Motion”). The Consolidated Motion was heard and granted on April 1, 2020. On April 9,
12 2020, the Court entered its Final Order Placing Lancet into Liquidation (the “Liquidation
13 Order”) and its Final Order Setting Claims Filing Deadline for Lancet and Related Relief
14 (the “Claims Order”). The Claims Order established a Claims Filing Deadline of April 1,
15 2021, and procedures for filing claims against Lancet, which is discussed further below.
16 The Liquidation Order also granted the Receiver’s request to formally place Lancet into
17 liquidation effective on April 9, 2020.

18 **II. RECEIVERSHIP ADMINISTRATION**

19 **A. Notice of Receivership**

20 The Receiver initially distributed notices regarding the Permanent Receivership
21 Order to all interested parties of Lancet, as detailed in the Receiver’s prior quarterly status
22 reports. On February 5, 2020, the Court entered its Order Regarding Motion for
23 Instructions Including Notice Requirements (the “Notice Order”). Pursuant to the Notice
24 Order, the Receiver has given notice (as detailed further in the previously submitted Fourth
25 Status Report) to interested parties of the Liquidation Order, the Claims Order, and the
26 approved procedures for filing claims against Lancet in receivership. Future notices about
27
28

1 Lancet’s receivership will continue to be provided to interested parties in accordance with
2 the Court’s Notice Order.

3 **B. Claims Administration**

4 The Receiver’s third-party claims administrator (“TPA”), Claims Resource
5 Management, Inc. (“CRMI”), is assisting the Receiver in the evaluation and adjudication of
6 incoming proofs of claim (“POC”). Seventy-eight (78) POC submissions have been filed with
7 the SDR to date, claiming approximately 38.6 million dollars.² A number of the POCs are
8 contingent and/or unliquidated, while others are lacking sufficient supporting
9 documentation to be adjudicated. The SDR has written to these claimants to provide
10 information about the deficiency(ies) in their POC submissions, and a reminder that all
11 claims must be complete, non-contingent, and liquidated in amount by the **April 1, 2021**
12 Claim Filing Deadline. Claimants were advised that they may contact the SDR and/or
13 CRMI with any questions about how to correct issues with their POCs.

14 CRMI is also responding to loss run and credentialing requests to the extent possible
15 given the limited resources of the Lancet estate.³

16 The Receiver has previously reported on the claim matter of *Mora v. Lancet*
17 *Indemnity* which was pending appeal at the outset of the receivership. The Receiver
18 presented a formal demand to Lancet’s reinsurers concerning this claim and worked with
19 counsel for Lancet’s reinsurers on a final resolution of claims related to the *Mora* claim
20 case. This claim has now been resolved as detailed below.

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

22 CRMI is the third-party claims administrator for the receivership estate. Further
23 information regarding CRMI’s receivership services are provided in section (B), *supra*.

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

27 ³ As previously reported, Lancet at this time can only provide loss run and claim
28 history based on the available records of Lancet as of April 2019. Therefore, loss run
reports provided by the SDR contain a disclosure regarding the completeness and accuracy
of the same.

1 PALOMAR FINANCIAL, LC (“Palomar”), an affiliated company of the SDR, performs financial
2 and technical administrative support services for Lancet in receivership. Palomar is being
3 used to save costs for the receivership estate, centralize data and information, and facilitate
4 the receivership’s administration. Merlinos & Associates (“Merlinos”) is an actuarial firm
5 that has been selected to assist the receivership estate as described further below in section
6 E (“Actuarial Reports”).

7 The Receiver has received notice from time to time of lawsuits filed against Lancet
8 in violation of the Court’s Permanent Receivership Order. The Receiver’s established
9 procedure is to write to the parties involved to inform them of the injunctions of the
10 Permanent Receivership Order, and to request a voluntary dismissal of Lancet from the
11 matter. Thus far, the majority of counsel have been amenable to such requests. In limited
12 cases and only when absolutely necessary, the Receiver will engage outside counsel to
13 address ongoing or repeated violations of this Court’s orders. The Receiver has been
14 required to engage outside counsel Frost Brown Todd in a Kentucky matter where Lancet
15 was named as a third-party defendant. The court in that matter denied Lancet’s Motion to
16 Dismiss, and the Receiver’s outside counsel has requested that the court in that matter
17 enter a formal written order, which will be further appealed.

18 **D. Records & Property**

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

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

1 **E. Actuarial Reports**

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

7 Merlinos has completed its actuarial reports on loss and loss expense reserves, gross
8 of reinsurance, for Lancet as of April 30, 2019, and December 31, 2019. The Receiver wrote
9 about these reports in the previous Seventh Status Report. The Receiver has determined
10 that a further actuarial report is not needed at this time. Updates to the Lancet claims
11 data are not expected to occur until after the Claim Filing Deadline on April 1, 2021, which
12 is when more complete claims data is expected to be finally received by the Receiver for
13 Lancet’s claimants and insureds.

14 **F. Reinsurance**

15 The Receiver is working with Lancet’s reinsurance brokers, Tyser & Co. Ltd.
16 (“Tysers”) (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet’s
17 reinsurance coverage and reinsured claims. After a number of commutation agreements
18 were executed in July and August of 2018, just one reinsurer remained on a small portion
19 of insurance risk for one excess of loss reinsurance contract (the “XOL”), with most of the
20 XOL reinsurance extinguished and released in 2018. The Receiver, and Tysers, will
21 continue to report claims on the XOL contract for the small portion of insurance risk that
22 remains covered. The Receiver recently submitted claim billings and premium adjustment
23 data to the XOL reinsurer, and since the last report to this Court, the Receiver has made
24 a reinsurance collection for Lancet on the XOL agreement. There are several additional
25 claims paid by Lancet pre-receivership that were not previously reported to the XOL
26 reinsurer, which may result in additional collections for Lancet. The Receiver will continue

1 to work with CRMI and Tysers to prepare the necessary reinsurance reporting on an
2 ongoing basis.

3 Lancet also had an Awards Made reinsurance treaty.⁴ The Receiver pursued a
4 reinsurance reimbursement payment due to Lancet, on the above-referenced *Mora* claim,
5 from the Awards Made treaty reinsurers. The Receiver worked with the reinsurers'
6 counsel, and after extensive negotiations reached a settlement agreement on the claim.
7 On January 25, 2021, the Court entered its Order Granting Lancet's Motion for Good
8 Faith Settlement on Order Shortening Time. This order approved of Lancet's proposed
9 settlement of the claim, and found that the settlement was made in good faith. Following
10 that order, the Receiver has received the agreed-upon settlement amount.

11 Lancet does not have any reinsurance policies that would provide coverage to
12 individual claimants or policyholders of Lancet, and the above-referenced collections have
13 been placed into the general assets of the estate for the benefit of all creditors of the estate.

14 **G. Tax Matters**

15 On March 4, 2020, the Receiver requested tax prompt assessment from the
16 Department of Treasury regarding tax claims that may exist for tax years 2018 and prior.
17 The Department of Treasury will now have a period of eighteen months to provide notice
18 to the Receiver of any claims for the above-mentioned tax claims. This year, the Receiver
19 will be pursuing tax prompt assessment from the Department of Treasury for tax years
20 2019 and 2020.

21 **H. Asset Recovery**

22 On March 4, 2019, the Receiver put the prior directors and officers ("D&O") of the
23 company, and their professional liability and/or errors and omissions insurance carrier (the
24 "D&O Insurance Carrier"), on notice of prior bad acts and actionable claims of the Receiver

25 ⁴ Generally, an "awards made" reinsurance contract provides indemnification of the
26 insurance company for a percentage of the losses that accrue to the insurance company as
27 a result of each award made (*i.e.*, a verdict or judgment rendered by a court of competent
28 jurisdiction) reported to the insurance company during the term of the Awards Made
reinsurance contract term.

1 resulting from pre-receivership errors, omissions, negligence, and misrepresentations. The
2 Receiver presented a demand for payment to the D&O Insurance Carrier for the claims
3 described within the notice. The Receiver, with the assistance of outside counsel, engaged
4 in discussions with counsel for the D&O Insurance Carrier. After extensive discussion, the
5 Receiver, the D&O, and the D&O Insurance Carrier reached a settlement agreement
6 without the need for any litigation. On February 25, 2021, the Court entered its Order
7 Granting Lancet's Motion for Good Faith Settlement on Order Shortening Time. This order
8 approved of the settlement, and found that the settlement was made in good faith.
9 Following that order, the Receiver has received the agreed-upon settlement amount.

10 I. Receivership Assets and Liabilities

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

20 As of January 31, 2021, the approximate liquid assets of the Company were as
21 follows:

22
23 ⁵ The *in camera* materials, **Exhibit B**, are being submitted in a separate envelope
24 that reflect paid invoices. Certain billings submitted to the Court are appropriate for *in*
25 *camera* review (as opposed to being made part of a public filing). In this regard, courts
26 have held that the bills of legal counsel and experts may be withheld from legal discovery
27 and are not subject to legal disclosure, as this information may provide indications or
28 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,
2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged
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

1 a. Cash in bank total: \$267,698.71

2 b. Investments fair market value total: \$1,245,556.29

3 A cash flow report for January 2021 is attached as Exhibit C. This cash report does
4 not reflect the D&O settlement and reinsurance recoveries.

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 Eighth Status Report and the actions taken by the Receiver.

9 DATED: this 10th day of March 2021.

10 Respectfully submitted:

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

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

19 fee information revealed counsel's mental impressions concerning litigation strategy).
20 Other courts that have addressed this issue have recognized that the "attorney-client
21 privilege embraces attorney time, records and statements to the extent that they reveal
22 litigation strategy and the nature of the services provided." *Real v. Cont'l Grp., Inc.*, 116
23 F.R.D. 211, 213 (N.D. Cal. 1986).

24 The *in-camera* review should apply not only to documentation concerning attorney
25 fees, but it also extends to "details of work revealed in [an] expert's work description [which]
26 would relate to tasks for which she [or he] was compensated[.]" a situation which is
27 "analogous to protecting attorney-client privileged information contained in counsel's bills
28 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted:

By: /s/ Kara Hendricks
KARA B. HENDRICKS, Bar No. 7743
GREENBERG TRAUERIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Telephone: (702) 792-3773
Facsimile: (702) 792-9002
Email: hendricksk@gtlaw.com

CERTIFICATE OF SERVICE

I certify that I am an employee of the Greenberg Traurig, LLP, and that on March 10th 2021, I filed the foregoing *Eighth Status Report* via this Court’s electronic filing system. Parties that are registered with this Court’s EFS will be served electronically.

Holland & Hart LLP
Ms. Constance I. Akridge, Esq.
9555 Hillwood Dr., 2nd floor
Las Vegas, Nevada 89134

Benedict Maniscalco
2727 W. Martin Luther King Blvd.,
Suite 800
Tampa, Florida 33607

Andrew Carlton
Director of Captive Accounting
Risk Services Companies
1605 Main Street, Suite 800
Sarasota, Florida 34236

Eric Springall
8360 W. Sahara Avenue, Suite 110
Las Vegas, Nevada 89117
Salvatore Rodriguez
2810 West St. Isabel Street, Suite 201
Tampa, Florida 33607

Anthony F. Maniscalco
2810 West St. Isabel Street, Suite 201
Tampa, FL 33607

Leonard William Luria
2727 West Martin Luther King
Boulevard, Suite 570
Tampa, Florida 33607

Alan J. Iezzi
15511 North Florida Avenue, Suite D
Tampa, Florida 33613

Robert Joseph Menendez
203 15th Avenue
Indian Rocks Beach, Florida 33785

Mark A. Tisdell
1520 South Lapeer Road, #120
Lake Orion, Michigan 48360

/s/ Andrea Lee Rosehill
An employee of Greenberg Traurig, LLP

EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION	NO. OF PAGES (Excluding tabs)
A	Bill Summaries of Interim Fees and Expenses Incurred by Lancet Indemnity Risk Retention Group for the Months of November through December, by Cantilo & Bennett, L.L.P., Palomar, CRMI, Frost Brown Todd, and Merlinos	16
B	In Camera Submission to be Filed Separately	68
C	Cash Flow and Disbursements Summary	2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28