



1 SR
2 MARK E. FERRARIO, Bar No. 1625
3 KARA B. HENDRICKS, Bar No. 7743
4 GREENBERG TRAUIG, 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 *Attorneys for the Plaintiff*

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

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

19 Plaintiff,

20 vs.

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

25 Defendant.

Case No. A-19-791409-B

Dept. No. 16

THIRTEENTH STATUS REPORT

26 COMES NOW, Commissioner of Insurance, Barbara D. Richardson, in her sole
27 capacity as Receiver, and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”),
28 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).

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 on 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 established the following key points for
11 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”). Future notices about
24 Lancet’s receivership will continue to be provided to interested parties in accordance with
25 the Court’s Notice Order.

26 **B. Claims Administration**

27 The April 1, 2021, Claims Filing Deadline has now passed, and Lancet received one
28 hundred nine (109) timely Proof of Claim (“POC”) submissions. The Special Deputy

1 Receiver is processing the POCs and has sent out one hundred seven (107) Notices of Claim
2 Determination (“NCD”) as of this report. A matrix showing the claim determinations made
3 to date is attached as Exhibit A to this status report. Pursuant to the Receivership Appeal
4 Procedure, each NCD recipient has sixty (60) days to object in writing to the SDR’s
5 determination(s). Seven (7) objections have been submitted as of this report. The Receiver
6 has reported in previous status reports of the likely need to seek the Court’s further
7 instruction on certain claim matters in order to resolve the claims and appeals of the Lancet
8 estate. Concurrently herewith, the Receiver is filing a Motion for Instructions on certain
9 claims and appeals matters. The Receiver will provide notice of the motion, any hearing(s)
10 set on the motion, and any Final Order entered on the motion, in accordance with the
11 Court’s Notice Order.

12 The Receiver’s third-party claims administrator (“TPA”), Claims Resource
13 Management, Inc. (“CRMI”), has completed its work in assisting the Receiver in the
14 evaluation and adjudication of incoming POCs. CRMI remains engaged on an as-needed,
15 hourly basis assisting the Receiver in reinsurance matters and handling policyholder loss
16 run and credentialing requests, to the extent possible given the limited resources of the
17 Lancet estate.² The Receiver will evaluate whether Lancet can continue to respond to such
18 requests under the circumstances.

19 C. Third-Party Support Services

20 CRMI is the third-party claims administrator for the receivership estate. Further
21 information regarding CRMI’s receivership services is provided in section (B), *supra*.
22 PALOMAR FINANCIAL, LC (“Palomar”), an affiliated company of the SDR, performs financial
23 and technical administrative support services for Lancet in receivership. Palomar is being
24 used to save costs for the receivership estate, centralize data and information, and facilitate
25 the receivership’s administration. Merlinos & Associates (“Merlinos”) is an actuarial firm

26 ² 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 that was selected to assist the receivership estate as described further below in section E
2 (“Actuarial Reports”).

3 The Receiver has received notice from time to time of lawsuits filed against Lancet
4 in violation of the Court’s Permanent Receivership Order. The Receiver’s established
5 procedure is to write to the parties involved to inform them of the injunctions of the
6 Permanent Receivership Order, and to request a voluntary dismissal of Lancet from the
7 matter. Thus far, the majority of counsel have been amenable to such requests. In limited
8 cases and only when absolutely necessary, the Receiver will engage outside counsel to
9 address ongoing or repeated violations of this Court’s orders.

10 The Receiver has written in previous status reports about an ongoing Kentucky
11 matter where Lancet was named as a third-party defendant in a lawsuit, and the plaintiff
12 has refused to defer to the injunctions within the Permanent Receivership Order
13 (“Holbrook Matter”). The Perry Circuit Court in that matter denied Lancet’s Motion to
14 Dismiss necessitating further action in Kentucky in an effort to bring this matter to a close.

15 Such actions include:

- 16 1. Requesting that the court in the Holbrook Matter enter a formal written
17 order;
- 18 2. Registering the Permanent Receivership Order in Kentucky under the
19 Uniform Enforcement of Foreign Judgments Act;
- 20 3. Filing a Motion for Relief from Prior Proceeding;
- 21 4. Filing a separate complaint for declaratory and injunctive relief in the
22 Franklin Circuit Court (*i.e.*, the Kentucky court holding exclusive jurisdiction
23 over all matters relating to insurance delinquency proceedings) (“Franklin
24 Court Proceedings”), along with a Motion for Restraining Order. This action
25 for declaratory and injunctive relief requested a judgment declaring *inter alia*
26 that the Permanent Receivership Order enjoins commencement or
27
28

1 prosecution of any action against Lancet in Kentucky, and that all claims of
2 the opposing parties in the Kentucky lawsuit are now barred.³

3 Despite these efforts, on October 1, 2021, Plaintiff (*i.e.*, Holbrook) filed a Renewed
4 Motion to Compel in the Perry Circuit Court action, seeking to compel Lancet's
5 participation in discovery in a proceeding outside the Receivership Court.⁴

6 Though it granted Lancet partial summary judgment, the Franklin Circuit Court
7 has indicated that the Receiver should seek relief from the Perry Circuit Court to enjoin
8 Holbrook from further prosecuting her suit against Lancet (*i.e.*, violating the Permanent
9 Receivership Order) in that court. Lancet's Motion for Relief remains pending in the Perry
10 Circuit Court and on November 5, 2021, Lancet's counsel filed a Motion for Ruling on
11 Pending Motion for Relief. To date, there is still no ruling from the Perry Circuit Court.

12 On November 10, 2021, Holbrook also filed a Notice of Appeal in the Franklin Court
13 Proceedings.⁵ However, Holbrook failed to submit an opening brief and the Receiver was
14 recently notified that the appeal was dismissed.

15 The Receiver has attempted at numerous times to cease the needless dissipation of
16 the assets of the Lancet liquidation estate in the Holbrook matter, and will continue
17 attempts in this regard.

18
19 ³ The Franklin Circuit Court, through its orders entered July 30, 2021, and October
20 12, 2021, has, *inter alia*, recognized the injunction issued by the Nevada Receivership Court
21 as validly domesticated in Kentucky, and ruled that Lancet is entitled to summary
22 judgment on the issue of liability (*i.e.*, Lancet has no liability to the parties in the Holbrook
23 proceeding because they failed to timely file a POC in the Nevada receivership proceeding).

24 ⁴ On October 14, 2021, the Perry Circuit Court held a hearing on the Plaintiff's
25 Renewed Motion to Compel at which hearing the court abated the Plaintiff's Motion to
26 Compel (pending Plaintiff's review of documents previously provided by the Receiver) and
27 indicated that, in the meantime, the Receiver's previous motion to reconsider would be
28 taken under submission. The Perry Circuit Court has not ruled on the pending motion as
of this report.

⁵ The appeal includes the October 12, 2021, Order Denying Defendants' Motion to
Alter, Amend or Reconsider (its July 30, 2021, Order Denying Defendants' Motion to
Dismiss) and granting, in part, Plaintiff's Motion for Summary Judgment, as well as the
court's order entered July 30, 2021, denying Defendants' Motion to Dismiss.

1 **D. Records & Property**

2 The Receiver is maintaining access, for the time being, to the cloud-based Lancet
3 policy database (*i.e.*, the Epic system, owned by Applied Systems, Inc.). The Receiver is
4 currently evaluating whether to terminate this Epic system, given the progress made in
5 resolving the claims of the estate. The Receiver earlier in the receivership terminated the
6 premium financing software (*i.e.*, the Input 1 system) in order to conserve costs, as the
7 software was determined to no longer be necessary.

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

13 **E. Actuarial Reports**

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

19 Merlinos has completed its actuarial reports on loss and loss expense reserves, gross
20 of reinsurance, for Lancet as of April 30, 2019, and December 31, 2019. The Receiver wrote
21 about these reports in the previous Seventh Status Report. The Receiver has determined
22 that a further actuarial report is not needed at this time.

23 **F. Reinsurance**

24 The Receiver is working with Lancet’s reinsurance brokers, Tyser & Co. Ltd.
25 (“Tysers”) (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet’s
26 reinsurance coverage and reinsured claims. After a number of commutation agreements
27 were executed in July and August of 2018, just one reinsurer remained on a small portion
28 of insurance risk for one excess of loss reinsurance contract (the “XOL”), with most of the

1 XOL reinsurance extinguished and released in 2018. The Receiver, and Tysers, will
2 continue to report claims on the XOL contract for the small portion of insurance risk that
3 remains covered.

4 Lancet also had an Awards Made reinsurance treaty.⁶ The Receiver pursued and
5 collected a reinsurance reimbursement payment due to Lancet, on the above-referenced
6 *Mora* claim, from the Awards Made treaty reinsurers. The Receiver reported on the
7 settlement of this claim in the previous Eighth Status Report.

8 To date, the Receiver has made reinsurance recoveries totaling \$851,118.00 for the
9 Lancet estate. The Receiver will continue to work with CRMI and Tysers to prepare the
10 reinsurance reporting on an ongoing basis that is necessary for further reinsurance
11 recoveries. 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, 2021, the Receiver requested tax prompt assessment from the
16 Department of Treasury regarding tax claims that may exist for tax year 2018. On October
17 14, 2021, the Department of Treasury wrote to acknowledge receipt of Lancet's request for
18 prompt assessment for tax year 2018, and advised that the Internal Revenue Service will
19 let Lancet know whether the request is approved or denied within 120 days. The Receiver
20 has filed Lancet's federal tax returns for tax years 2019 and 2020, and on October 14, 2021,
21 the Receiver requested tax prompt assessment from the Department of Treasury regarding
22
23
24

25 ⁶ 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 tax claims that may exist for tax years 2019 and 2020. The Department of Treasury has
2 not yet responded to the latter request.

3 **H. Receivership Assets and Liabilities**

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

12 As of December 31, 2021, the approximate liquid assets of the Company were as
13 follows:

14 ⁷ Recently, the Receiver has approved new billing rates for Cantilo & Bennett, L.L.P.
15 effective as of January 1, 2022. The SDR invoices for year 2022 and thereafter will reflect
16 the newly approved billing rates. The *in camera* materials, **Exhibit C**, are being submitted
17 in a separate envelope that reflect paid invoices. Certain billings submitted to the Court
18 are appropriate for *in camera* review (as opposed to being made part of a public filing). In
19 this regard, courts have held that the bills of legal counsel and experts may be withheld
20 from legal discovery and are not subject to legal disclosure, as this information may provide
21 indications or context concerning potential litigation strategy and the nature of the expert
22 services being provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-
23 00929- GMN-PAL, 2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014) (finding that billing
24 entries were privileged because they reveal a party's strategy and the nature of services
25 provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990)
26 (considering whether or not fee information revealed counsel's mental impressions
27 concerning litigation strategy). Other courts that have addressed this issue have recognized
28 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).

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

1 a. Cash in bank total: \$210,102.59

2 b. Investments fair market value total: \$1,597,989.45

3 A cash flow report for March 2022, is attached as Exhibit D.

4 **III. CONCLUSION**

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

9 DATED: May 5, 2022.

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 Respectfully submitted:

20 By: /s/ Kara Hendricks
21 KARA B. HENDRICKS, Bar No. 7743
22 GREENBERG TRAUIG, LLP
23 10845 Griffith Peak Drive, Suite 600
24 Las Vegas, NV 89135

25
26
27 also reveal the motive of the client in seeking representation, litigation strategy, or the
28 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 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of Greenberg Traurig, and that, pursuant to Nev. R.
3 Civ. P. 5(b)(2)(d) and E.D.C.R. 8.05, on this 5th day of May 2022, I caused a true and correct
4 copy of the foregoing ***Thirteenth Status Report*** to be filed and served electronically via
5 Odyssey, the Court's electronic filing system upon all parties registered to this action. I
6 further certify that I caused a true and correct copy of the ***Thirteenth Status Report*** to
7 be served via U.S. Mail, postage pre-paid on May 5, 2022, upon the parties listed below:

8 Holland & Hart LLP
9 Ms. Constance L. Akridge, Esq.
10 9555 Hillwood Dr., 2nd floor
Las Vegas, Nevada 89134

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

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

Eric Springall
8360 W. Sahara Avenue, Suite 110
Las Vegas, Nevada 89117

14 Anthony F. Maniscalco
15 2810 West St. Isabel Street, Suite 201
Tampa, FL 33607

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

16 Alan J. Iezzi
17 15511 North Florida Avenue, Suite D
Tampa, Florida 33613

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

18
19
20 /s/ Andrea Lee Rosehill
21 An employee of Greenberg Traurig, LLP
22
23
24
25
26
27
28

EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION	NO. OF PAGES (Excluding tabs)
A	Matrix of Claim Determinations Made to Date	3
B	Bill Summaries of Interim Fees and Expenses Incurred by Lancet Indemnity Risk Retention Group for Cantilo & Bennett, L.L.P., Palomar Financial, Greenberg Traurig, CRMI, Frost Brown Todd, and Calhoun Thomson + Matza LLP	13
C	In Camera Submission to be Filed Separately	44
D	Cash Flow and Disbursements Summary	1