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11 *Attorney for Plaintiff*

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
13 **CLARK COUNTY, NEVADA**

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

19 Plaintiff,

20 vs.

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

24 Defendant.

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

**FOURTEENTH STATUS REPORT**

25 COMES NOW, Commissioner of Insurance, Barbara D. Richardson, in her sole capacity as  
26 Receiver, and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”), and files this quarterly  
27 Status Report (“Report”) in the above-captioned receivership. In accordance with the orders of this  
28 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 association  
3 captive insurance company organized under the insurance laws of Nevada and the Liability Risk  
4 Retention Act of 1986. Lancet received its Amended Certificate of Authority on November 19, 2008,  
5 and operates under the authority of NRS Chapter 694C. Lancet was focused on the medical  
6 professional liability line and was formed to insure the medical professional liability of its physician  
7 and medical group members.

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

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

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

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

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

9 In brief, the Permanent Receivership Order established the following key points for the  
10 receivership:

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

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

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

16 **II. RECEIVERSHIP ADMINISTRATION**

17 **A. Notice of Receivership**

18 The Receiver initially distributed notices regarding the Permanent Receivership Order to all  
19 interested parties of Lancet, as detailed in the Receiver’s prior quarterly status reports. On February  
20 5, 2020, the Court entered its Order Regarding Motion for Instructions Including Notice  
21 Requirements (the “Notice Order”). Future notices about Lancet’s receivership will continue to be  
22 provided to interested parties in accordance with the Court’s Notice Order.

23 **B. Claims Administration**

24 The April 1, 2021, Claims Filing Deadline has now passed, and Lancet received one hundred  
25 nine (109) timely Proof of Claim (“POC”) submissions. The Special Deputy Receiver is processing  
26 the POCs and has sent out one hundred seven (107) Notices of Claim Determination (“NCD”) as of  
27 this report. A matrix showing the claim determinations made to date was attached as an exhibit to  
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1 the Receiver’s previous Thirteenth Status Report. Pursuant to the Receivership Appeal Procedure,  
2 each NCD recipient has sixty (60) days to object in writing to the SDR’s determination(s). Seven (7)  
3 objections have been submitted as of this report. On May 5, 2022, the Receiver filed a motion seeking  
4 the Court’s further instruction on certain claim matters in order to resolve the claims and appeals of  
5 the Lancet estate. The Hearing for this motion is currently set for August 10, 2022. The Receiver  
6 has provided and will continue to provide notice of the motion, any hearing(s) set on the motion, and  
7 any Final Order entered on the motion, in accordance with the Court’s Notice Order. The relevant  
8 notices, reports, and pleadings will be posted under the “Receivership Documents” section of the  
9 receivership web site (www.LancetIndemnity.com).

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

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

17 CRMI is the third-party claims administrator for the receivership estate. Further information  
18 regarding CRMI’s receivership services is provided in section (B), *supra*. PALOMAR FINANCIAL, LC  
19 (“Palomar”), an affiliated company of the SDR, performs financial and technical administrative  
20 support services for Lancet in receivership. Palomar is being used to save costs for the receivership  
21 estate, centralize data and information, and facilitate the receivership’s administration. Merlino &  
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25 <sup>2</sup> As previously reported, Lancet at this time can only provide loss run and claim  
26 history based on the available records of Lancet as of April 2019. Therefore, loss run  
27 reports provided by the SDR contain a disclosure regarding the completeness and  
28 accuracy of the same.

1 Associates (“Merlinos”) is an actuarial firm that was selected to assist the receivership estate as  
2 described further below in section E (“Actuarial Reports”).

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

9 The Receiver has written in previous status reports about an ongoing Kentucky matter where  
10 Lancet was named as a third-party defendant in a lawsuit, and the plaintiff has refused to defer to the  
11 injunctions within the Permanent Receivership Order (“Holbrook Matter”). The Perry Circuit Court  
12 in that matter denied Lancet’s Motion to Dismiss necessitating further action in Kentucky in an effort  
13 to bring this matter to a close. The Receiver attempted at numerous times to cease the needless  
14 dissipation of the assets of the Lancet liquidation estate in the Holbrook Matter. The Receiver’s  
15 efforts in this regard are summarized in the Receiver’s previous Thirteenth Status Report. Finally, on  
16 June 15, 2022, the Perry Circuit Court dismissed with prejudice all claims against Lancet in the  
17 Holbrook Matter. The Receiver will continue to report on this matter if there are further  
18 developments.

19 **D. Records & Property**

20 The Receiver is maintaining access, for the time being, to the cloud-based Lancet policy  
21 database (*i.e.*, the Epic system, owned by Applied Systems, Inc.). The Receiver plans to terminate  
22 this Epic system within the year, upon the resolution of all claims and appeals of the Lancet estate.  
23 The Receiver earlier in the receivership terminated the premium financing software (*i.e.*, the Input 1  
24 system) in order to conserve costs, as the software was determined to no longer be necessary.

25 As previously reported, it does not appear that the Company kept complete and accurate  
26 claims records – and it was necessary for the Receiver and/or CRMI to request records from third  
27 parties in an attempt to complete the claim files. Many files remain incomplete. The Receiver will

1 continue to evaluate the available records and will continue to make requests as needed for missing  
2 information.

3 **E. Actuarial Reports**

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

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

12 **F. Reinsurance**

13 The Receiver is working with Lancet’s reinsurance brokers, Tyser & Co. Ltd. (“Tysers”)  
14 (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet’s reinsurance coverage  
15 and reinsured claims. After a number of commutation agreements were executed in July and August  
16 of 2018, just one reinsurer remained on a small portion of insurance risk for one excess of loss  
17 reinsurance contract (the “XOL”), with most of the XOL reinsurance extinguished and released in  
18 2018. The Receiver, and Tysers, will continue to report claims on the XOL contract for the small  
19 portion of insurance risk that remains covered.

20 Lancet also had an Awards Made reinsurance treaty.<sup>3</sup> The Receiver pursued and collected a  
21 reinsurance reimbursement payment due to Lancet, on the above-referenced *Mora* claim, from the  
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24 <sup>3</sup> Generally, an “awards made” reinsurance contract provides indemnification of  
25 the insurance company for a percentage of the losses that accrue to the insurance  
26 company as a result of each award made (*i.e.*, a verdict or judgment rendered by a court  
27 of competent jurisdiction) reported to the insurance company during the term of the  
28 Awards Made reinsurance contract term.

1 Awards Made treaty reinsurers. The Receiver reported on the settlement of this claim in the previous  
2 Eighth Status Report.

3 To date, the Receiver has made reinsurance recoveries totaling \$881,173.39 for the Lancet  
4 estate. The Receiver will continue to work with CRMI and Tysers to prepare the reinsurance reporting  
5 on an ongoing basis that is necessary for further reinsurance recoveries. Lancet does not have any  
6 reinsurance policies that would provide coverage to individual claimants or policyholders of Lancet,  
7 and the above-referenced collections have been placed into the general assets of the estate for the  
8 benefit of all creditors of the estate.

9 **G. Tax Matters**

10 On March 4, 2021, the Receiver requested tax prompt assessment from the Department of  
11 Treasury regarding tax claims that may exist for tax year 2018. The Internal Revenue Service  
12 provided a closing date of September 26, 2022, for any tax claims related to the 2018 tax year. The  
13 Receiver has filed Lancet's federal tax returns for tax years 2019 and 2020, and on October 14, 2021,  
14 the Receiver requested tax prompt assessment from the Department of Treasury regarding tax claims  
15 that may exist for tax years 2019 and 2020. The Department of Treasury has not yet responded to the  
16 latter request.

17 **H. Receivership Assets and Liabilities**

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

25 As of June 30, 2022, the approximate liquid assets of the Company were as follows:

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27 <sup>4</sup> The *in camera* materials, **Exhibit B**, are being submitted in a separate  
28 envelope that reflect paid invoices. Certain billings submitted to the Court are



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- a. Cash in bank total: \$118,278.45
- b. Investments fair market value total: \$1,481,031.30

A cash flow report for June 2022 is attached as Exhibit C.

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appropriate for *in camera* review (as opposed to being made part of a public filing). In this regard, courts 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, 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 fee information revealed counsel’s mental impressions concerning litigation strategy). 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).

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 **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 Fourteenth Status Report and the actions taken by the Receiver.

5 DATED: August 5, 2022.

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

15 Respectfully submitted:

16 By: /s/ Kara Hendricks  
17 KARA B. HENDRICKS, Bar No. 7743  
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19 10845 Griffith Peak Drive, Suite 600  
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of Greenberg Traurig, and that, pursuant to  
3 Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, on this 5<sup>th</sup> day of August 2022, I caused a true and  
4 correct copy of the foregoing **Fourteenth 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 further  
6 certify that I caused a true and correct copy of the **Fourteenth Status Report** to be served via U.S.  
7 Mail, postage pre-paid on August 5, 2022 upon the parties listed below:

8 Holland & Hart LLP  
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20 /s/ Andrea Lee Rosehill  
21 Employee of Greenberg Traurig, LLP

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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 Cantilo & Bennett, L.L.P., Palomar Financial, Greenberg Traurig, CRMI, and Frost Brown Todd	25
B	In Camera Submission to be Filed Separately	88
C	Cash Flow and Disbursements Summary	1