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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

FIFTEENTH 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 Court
28 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 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 on 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 Insurance Guaranty Association. Pursuant to NRS 695E.140(1)(a), Lancet is also subject to all laws that
14 pertain to 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 established the following key points for the
6 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”). Future notices about Lancet’s receivership will continue to be provided to interested
16 parties in accordance with the Court’s Notice Order.

17 **B. Claims Administration**

18 The April 1, 2021, Claims Filing Deadline has now passed, and Lancet received one hundred nine
19 (109) timely Proof of Claim (“POC”) submissions. The Special Deputy Receiver is processing the POCs
20 and has sent out one hundred seven (107) Notices of Claim Determination (“NCD”) as of this report. A
21 matrix showing the claim determinations made to date was attached as an exhibit to the Receiver’s
22 previous Thirteenth Status Report. Pursuant to the Receivership Appeal Procedure, each NCD recipient
23 has sixty (60) days to object in writing to the SDR’s determination(s). Seven (7) claimants filed
24 objections to the to the SDR’s determinations, and four (4) of these objections pertain to class B policy
25 claims pursuant to NRS 696B.420(1)(b). On May 5, 2022, the Receiver filed a motion seeking the
26 Court’s further instructions on certain claim matters to resolve the claims and appeals of the Lancet estate.
27 No opposition was filed in response to the same. Following the Receiver’s Motion for Instructions, the
28

1 Court set a briefing schedule for appeals submitted by claimants and the Receiver submitted opening
2 briefs for each of the appeals. No opposition and/or response was filed.

3 On August 31, 2022, the Receiver filed Opening Briefs for the appeals of Proofs of Claim LI-
4 00022, LI-00077, and LI-00082 (collectively, the “Appeal Motions”). No opposition and/or response
5 was filed by any party. On October 26, 2022, the Court entered its orders granting each of the Appeal
6 Motions and thereby upholding the Receiver’s determinations of those Proofs of Claim. As regards the
7 fourth pending claim objection, the Receiver filed a Motion for Instructions requesting approval of the
8 Receiver’s proposed resolution of the appeal, no opposition and/or response was filed by any party, and
9 the motion was granted at the hearing on November 2, 2022. Upon resolution of this last Class B appeal,
10 the Receiver will proceed, subject to the Court’s approval, with a Plan of Distribution for the Class B
11 claims.

12 The Receiver has provided and will continue to provide notice of the above motions, any
13 hearing(s) set on the motions, and any Final Orders entered, in accordance with the Court’s orders. The
14 relevant notices, reports, and pleadings will be posted under the “Receivership Documents” section of
15 the receivership web site (www.LancetIndemnity.com).

16 The Receiver’s third-party claims administrator (“TPA”), Claims Resource Management, Inc.
17 (“CRMI”), has completed its work in assisting the Receiver in the evaluation and adjudication of POCs.
18 CRMI remains engaged on an as-needed, hourly basis assisting the Receiver in reinsurance matters and
19 handling policyholder loss run and credentialing requests, to the extent possible given the limited
20 resources of the Lancet estate.² Under the circumstances, including the limited assets in the Lancet estate,
21 the Receiver will cease providing loss run and credentialing services to Lancet’s former policyholders as
22 of December 31, 2022.

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

24 CRMI is the third-party claims administrator for the receivership estate. Further information
25 regarding CRMI’s receivership services is provided in section (B), *supra*. PALOMAR FINANCIAL, LC

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

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

12 **D. Records & Property**

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

18 As previously reported, it does not appear that the Company kept complete and accurate claims
19 records – and it was necessary for the Receiver and/or CRMI to request records from third parties in an
20 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 Merlino is an actuarial firm that was selected to assist the estate by evaluating the policy and
24 claims information for Lancet to provide a projection of the current and future claims liabilities of the
25 estate. Merlino also evaluated Lancet’s liability for the return premium owed for tail coverage policies
26 that were terminated by the receivership order cancelling such insurance coverages.

27 Merlino has completed its actuarial reports on loss and loss expense reserves, gross of
28 reinsurance, for Lancet as of April 30, 2019, and December 31, 2019. The Receiver wrote about these

1 reports in the previous Seventh Status Report. The Receiver has determined that a further actuarial report
2 is not needed at this time.

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 2018,
7 just one reinsurer remained on a small portion of insurance risk for one excess of loss reinsurance contract
8 (the "XOL"), with most of the XOL reinsurance extinguished and released in 2018. The Receiver, and
9 Tysers, will continue to report claims on the XOL contract for the small portion of insurance risk that
10 remains covered.

11 Lancet also had an Awards Made reinsurance treaty.³ The Receiver pursued and collected a
12 reinsurance reimbursement payment due to Lancet, on the above-referenced *Mora* claim, from the
13 Awards Made treaty reinsurers. The Receiver reported on the settlement of this claim in the previous
14 Eighth Status Report.

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

21 **G. Tax Matters**

22 On March 4, 2021, the Receiver requested tax prompt assessment from the Department of
23 Treasury regarding tax claims that may exist for tax year 2018. The Internal Revenue Service provided
24 a closing date of September 26, 2022, for any tax claims related to the 2018 tax year. The Receiver has

25 ³ 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 filed Lancet's federal tax returns for tax years 2019 and 2020, and on October 14, 2021, the Receiver
2 requested tax prompt assessment from the Department of Treasury regarding tax claims that may exist
3 for tax years 2019 and 2020. The Department of Treasury has not yet responded to the latter request.

4 **H. Receivership Assets and Liabilities**

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

12 As of September 30, 2022, the approximate liquid assets of the Company were as follows:

13 ⁴ 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: \$12,261.45

2 b. Investments fair market value total: \$1,419,423.86

3 A cash flow report for September 2022 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 Fifteenth Status Report and the actions taken by the Receiver.

8 DATED: November 4, 2022.

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

15 Respectfully submitted:

16 By: /s/ Kara Hendricks
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1 **CERTIFICATE OF SERVICE**

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

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20
21 /s/ Andrea Lee Rosehill
22 An employee of Greenberg Traurig, LLP

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28 EXHIBIT LIST

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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, and CRMI	41
B	In Camera Submission to be Filed Separately	131
C	Cash Flow and Disbursements Summary	1