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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.

Case No. A-19-791409-B

Dept. No. 16

27 **SIXTEENTH STATUS REPORT**

28 COMES NOW, the Commissioner of Insurance<sup>1</sup>, and CANTILO & BENNETT, L.L.P.,  
Special Deputy Receiver (“SDR”), and files this quarterly Status Report (“Report”) in the  
above-captioned receivership. In accordance with the orders of this Court and the Nevada

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<sup>1</sup> Barbara D. Richardson resigned from her position as Commissioner of Insurance effective December 30, 2022. Nick Stosic has been named as acting Insurance Commissioner. Pursuant to NRCP 25(d), when a public officer ceases to hold office while an action is pending, “[t]he officer’s successor is automatically substituted as a party.”

1 Revised Statutes (“NRS”) Chapter 696B, the Receiver makes this “true report[s] in  
2 summary form of the insurer’s affairs under the receivership and of progress being made  
3 in accomplishing the objectives of the receivership.” NRS 696B.290(7).

4 **I. INTRODUCTION**

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

11 Pursuant to NRS 679A.160, Lancet is subject to Nevada laws in Chapters 694C and  
12 695E that pertain to captive insurers (as “captive insurer” is defined in NRS 694C.060) and  
13 risk retention groups (as “risk retention group” is defined in NRS 695E.110) that have a  
14 Certificate of Authority from the Division of Insurance. Lancet is considered an association  
15 captive insurer (as “association captive insurer” is defined in NRS 694C.050). As a risk  
16 retention group (“RRG”), Lancet is subject to the federal Liability Risk Retention Act of  
17 1986. RRGs domiciled in Nevada do not participate in the Nevada Insurance Guaranty  
18 Association. Pursuant to NRS 695E.140(1)(a), Lancet is also subject to all laws that pertain  
19 to traditional liability insurers (with exceptions given in Bulletin 14-008).

20 At the outset of the receivership, Lancet owned minimal personal property, had no  
21 office lease of its own, and only two employees. Lancet’s business was primarily conducted  
22 through third-party contractors,<sup>2</sup> such as Tampa Bay Health Solutions, LLC (management  
23 and policyholder services), Western Litigation, Inc. (claims administrator), and Risk  
24 Services (accounting and auditing services). The Company also provided in-house premium  
25 financing services for a number of its policies.

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26 <sup>2</sup> 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 On March 11, 2019, the Company consented to receivership by a letter from its  
2 President and Board of Directors to the Commissioner requesting that Lancet be placed  
3 into receivership. The Commissioner filed her Verified Petition for Appointment of  
4 Commissioner as Receiver and Other Permanent Relief on March 19, 2019. As detailed in  
5 the petition, Lancet qualified for receivership based on several criteria and Lancet was in  
6 a very hazardous financial condition. On April 12, 2019, this Court entered its Permanent  
7 Injunction and Agreed Order Appointing Commissioner as Permanent Receiver of Lancet  
8 Indemnity Risk Retention Group (the “Permanent Receivership Order”). Barbara D.  
9 Richardson, Commissioner of Insurance (“Commissioner”), in her capacity as Receiver for  
10 Lancet, appointed the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy Receiver  
11 of the Companies. The “Receiver” and “Special Deputy Receiver” are referred to collectively  
12 herein as the “Receiver.”

13 In brief, the Permanent Receivership Order established the following key points for  
14 the receivership:

- 15 1. that all evidences of coverage, insurance policies, and contracts of insurance  
16 are to be canceled effective on April 30, 2019, unless the Receiver determines  
17 that any such contracts should be canceled as of an earlier date;
- 18 2. that the Receiver may impose a full suspension on all disbursements owed by  
19 Lancet, including insurance policy disbursements, and costs related to the  
20 defense or adjudication of insurance policy claims;
- 21 3. that the receivership court has exclusive jurisdiction over all matters  
22 pertaining to Lancet and all persons are enjoined from commencing, bringing,  
23 maintaining, or further prosecuting any action at law, suit in equity,  
24 arbitration, or special or other proceeding against the Company, Receiver, or  
25 Special Deputy Receiver;
- 26 4. that the Receiver is vested with exclusive title both legal and equitable to all  
27 of Lancet’s property wherever located, to administer under the general  
28 supervisions of the Court;

1           5.     that the Receiver may change to her own name the name of any of Lancet's  
2           accounts, funds, or other property or assets, held with any bank, savings and  
3           loan association, other financial institution, or any other person, wherever  
4           located, and may withdraw such funds, accounts, and other assets from such  
5           institutions or take any lesser action necessary for the proper conduct of the  
6           receivership; and

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

11           On February 25, 2020, the Receiver filed a consolidated motion for a Final Order  
12          Placing Lancet Indemnity Risk Retention Group, Inc. into Liquidation, and for a Final  
13          Order Setting a Claims Filing Deadline and Granting Related Relief (the "Consolidated  
14          Motion"). The Consolidated Motion was heard and granted on April 1, 2020. On April 9,  
15          2020, the Court entered its Final Order Placing Lancet into Liquidation (the "Liquidation  
16          Order") and its Final Order Setting Claims Filing Deadline for Lancet and Related Relief  
17          (the "Claims Order"). The Claims Order established a Claims Filing Deadline of April 1,  
18          2021, and procedures for filing claims against Lancet, which is discussed further below.  
19          The Liquidation Order also granted the Receiver's request to formally place Lancet into  
20          liquidation effective on April 9, 2020.

## 21          **II.     RECEIVERSHIP ADMINISTRATION**

### 22                 **A.     Notice of Receivership**

23                 The Receiver initially distributed notices regarding the Permanent Receivership  
24          Order to all interested parties of Lancet, as detailed in the Receiver's prior quarterly status  
25          reports. On February 5, 2020, the Court entered its Order Regarding Motion for  
26          Instructions Including Notice Requirements (the "Notice Order"). Future notices about  
27          Lancet's receivership will continue to be provided to interested parties in accordance with  
28          the Court's Notice Order.

1           **B.     Claims Administration**

2           The April 1, 2021, Claims Filing Deadline has now passed, and Lancet received one  
3 hundred nine (109) timely Proof of Claim (“POC”) submissions.<sup>3</sup> The Special Deputy  
4 Receiver is processing the POCs and has sent out one hundred seven (107) Notices of Claim  
5 Determination (“NCD”) as of this report. Pursuant to the Receivership Appeal Procedure,  
6 each NCD recipient has sixty (60) days to object in writing to the SDR’s determination(s).  
7 Seven (7) claimants filed objections to the to the SDR’s determinations, and four (4) of these  
8 objections pertain to class B policy claims pursuant to NRS 696B.420(1)(b).

9           The Class B appeals have been heard and resolved, as detailed in the prior Fifteenth  
10 Status Report. The Receiver will next proceed to file a motion for the Court’s approval of a  
11 Plan of Distribution for the Class B claims. Such motion will include the Receiver’s  
12 recommendations pertaining to the claims assigned a priority class below Class B, as there  
13 are insufficient assets in the estate to make a distribution for such claims.<sup>4</sup> The Receiver  
14 will also seek the Court’s approval of determinations made on the three appeals of class C  
15 and G claims.

16           A matrix showing the claim determinations for the Lancet estate is attached as  
17 Exhibit A. Unless otherwise noted therein, the determinations shown in Exhibit A are now  
18 final. The Receiver has provided and will continue to provide notice of motions, hearings,  
19 and any Final Orders entered, in accordance with the Court’s orders. The relevant notices,  
20 reports, and pleadings will be posted under the “Receivership Documents” section of the  
21 receivership web site ([www.LancetIndemnity.com](http://www.LancetIndemnity.com)).

22           The Receiver’s third-party claims administrator (“TPA”), Claims Resource  
23 Management, Inc. (“CRMI”), has completed its work in assisting the Receiver in the

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25           <sup>3</sup> One timely-filed POC was withdrawn by the submitter, leaving a total of one  
hundred eight POCs to be processed.

26           <sup>4</sup> “The receiver is not required to process any claims in a class until it appears that  
27 assets will be available for distribution to that class. If there are insufficient assets to  
28 process claims for a class, the receiver shall notify the court and may make a  
recommendation to the court for the processing of any such claims.” NRS 696B.330(4).

1 evaluation and adjudication of POCs. CRMI remains engaged on an as-needed, hourly  
2 basis to assist the Receiver with claim matters. As advised in the Receiver’s prior Fifteenth  
3 Status Report, the Receiver ceased providing loss run and credentialing services to Lancet’s  
4 former policyholders effective December 31, 2022.<sup>5</sup>

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

6 CRMI is the third-party claims administrator for the receivership estate. Further  
7 information regarding CRMI’s receivership services is provided in section (B), *supra*.  
8 PALOMAR FINANCIAL, LC (“Palomar”), an affiliated company of the SDR, performs financial  
9 and technical administrative support services for Lancet in receivership. Palomar is being  
10 used to save costs for the receivership estate, centralize data and information, and facilitate  
11 the receivership’s administration. Merlinos & Associates (“Merlinos”) is an actuarial firm  
12 that was selected to assist the receivership estate as described further below in section E  
13 (“Actuarial Reports”).

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

21 **D. Records & Property**

22 The Receiver previously maintained access to the cloud-based Lancet policy database  
23 (*i.e.*, the Epic system, owned by Applied Systems, Inc.). The Receiver has terminated this  
24 system effective December 31, 2022, in order to conserve costs, as the software was  
25 determined to be no longer necessary.

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<sup>5</sup> Notice was also posted in advance on the home page of the Lancet receivership  
web site, [www.lancetindemnity.com](http://www.lancetindemnity.com).

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

#### 6 **E. Actuarial Reports**

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

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

#### 16 **F. Reinsurance**

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

25 Lancet also had an Awards Made reinsurance treaty.<sup>6</sup> The Receiver pursued and  
26 collected a reinsurance reimbursement payment due to Lancet, on the *Mora* claim, from

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27  
28 <sup>6</sup> Generally, an “awards made” reinsurance contract provides indemnification of the insurance company for a percentage of the losses that accrue to the insurance company as

1 the Awards Made treaty reinsurers. The Receiver reported on the *Mora* claim, and its  
2 settlement, in the previous Eighth Status Report.

3 To date, the Receiver has made reinsurance recoveries totaling \$881,173.39 for the  
4 Lancet estate. With claims and appeals of the estate largely finalized, the Receiver will  
5 now work with Tysers (and CRMI as needed) to close out any remaining reinsurance  
6 matters for the Lancet estate, including any recoveries to which Lancet may be entitled.  
7 Lancet does not have any reinsurance policies that would provide coverage to individual  
8 claimants or policyholders of Lancet, and the above-referenced reinsurance collections have  
9 been placed into the general assets of the estate for the benefit of all creditors of the estate.

10 **G. Tax Matters**

11 On March 4, 2021, the Receiver requested tax prompt assessment from the  
12 Department of Treasury regarding tax claims that may exist for tax year 2018. The  
13 Internal Revenue Service provided a closing date of September 26, 2022, for any tax claims  
14 related to the 2018 tax year. Lancet's tax return years through 2018 are closed without  
15 any claims from the IRS.

16 The Receiver has filed Lancet's federal tax returns for tax years 2019 and 2020, and  
17 on October 14, 2021, the Receiver requested tax prompt assessment from the Department  
18 of Treasury regarding tax claims that may exist for tax years 2019 and 2020. The Receiver  
19 has filed Lancet's federal tax return for tax year 2021, and on December 6, 2022, the  
20 Receiver requested tax prompt assessment from the Department of Treasury regarding tax  
21 claims that may exist for tax year 2021. The Department of Treasury has not yet responded  
22 to the Receiver's prompt assessment requests for tax years 2019, 2020, and 2021.

23 **H. Receivership Assets and Liabilities**

24 The Receiver has been gathering information and evaluating the assets and  
25 liabilities of Lancet. The claims evaluation is completed, and all Class B claim appeals

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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 have been resolved. Lancet’s final liability for Class B claims is \$2,730,351.47. Lancet’s  
2 estimated liability for *all* classes of claims is \$3,353,379.98.<sup>7</sup> On September 11, 2019, the  
3 Court entered its Order Granting Receiver’s Motion to Approve Fees and Rates Filed on  
4 July 24, 2019. Pursuant to this Order, the Receiver has included an informational copy, as  
5 Exhibit B to this Sixteenth Status Report, of the invoices paid to the SDR and other  
6 receivership consultants since the last status report to this Court.<sup>8</sup> Below is an overview  
7 of some key financial matters for the Lancet receivership.

8 As of December 31, 2022, the approximate liquid assets of the Company were as  
9 follows:

10  
11 <sup>7</sup> This estimate may be adjusted depending upon the final resolution of claims  
12 assigned to priority classes C and below. See, for example, discussion *supra* regarding three  
13 outstanding appeals of class C and G claim determinations.

14 <sup>8</sup> The *in camera* materials, **Exhibit C**, are being submitted in a separate envelope  
15 that reflect paid invoices. Certain billings submitted to the Court are appropriate for *in*  
16 *camera* review (as opposed to being made part of a public filing). In this regard, courts  
17 have held that the bills of legal counsel and experts may be withheld from legal discovery  
18 and are not subject to legal disclosure, as this information may provide indications or  
19 context concerning potential litigation strategy and the nature of the expert services being  
20 provided. See, e.g., *Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL,  
21 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged  
22 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  
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: \$57,718.90

2 b. Investments fair market value total: \$1,282,785.43

3 A cash flow report for December 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 Sixteenth Status Report and the actions taken by the Receiver.

8 DATED: January 31, 2023.

9 Respectfully submitted:

10  
11 By: /s/ CANTILO & BENNETT, L.L.P.  
12 Special Deputy Receiver  
13 By Its Authorized Representative  
Mark F. Bennett

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EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION	NO. OF PAGES (Excluding tabs)
A	NRS 696B.330 Claim Reports	6
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, and CRMI	42
C	In Camera Submission to be Filed Separately	193
D	Cash Flow and Disbursements Summary	1