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11 *Attorneys for the Plaintiff*

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 STATE OF NEVADA, EX REL.  
15 COMMISSIONER OF INSURANCE, IN HIS  
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

25 **EIGHTEENTH STATUS REPORT**

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

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<sup>1</sup> Barbara D. Richardson resigned from her position as Commissioner of Insurance effective December 30, 2022. Scott Kipper assumed the role of Nevada Insurance Commissioner in February 2023. Pursuant to NRCPC 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 receivership and of progress being made in accomplishing the objectives of the receivership.” NRS  
2 696B.290(7).

### 3 **I. INTRODUCTION**

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

9 Pursuant to NRS 679A.160, Lancet is subject to Nevada laws in Chapters 694C and 695E that  
10 pertain to captive insurers (as “captive insurer” is defined in NRS 694C.060) and risk retention groups  
11 (as “risk retention group” is defined in NRS 695E.110) that have a Certificate of Authority from the  
12 Division of Insurance. Lancet is considered an association captive insurer (as “association captive  
13 insurer” is defined in NRS 694C.050). As a risk retention group (“RRG”), Lancet is subject to the federal  
14 Liability Risk Retention Act of 1986. RRGs domiciled in Nevada do not participate in the Nevada  
15 Insurance Guaranty Association. Pursuant to NRS 695E.140(1)(a), Lancet is also subject to all laws that  
16 pertain 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 office lease of  
18 its own, and only two employees. Lancet’s business was primarily conducted through third-party  
19 contractors,<sup>2</sup> such as Tampa Bay Health Solutions, LLC (management and policyholder services),  
20 Western Litigation, Inc. (claims administrator), and Risk Services (accounting and auditing services).  
21 The Company also provided in-house premium financing services for a number of its policies.

22 On March 11, 2019, the Company consented to receivership by a letter from its President and  
23 Board of Directors to the Commissioner requesting that Lancet be placed into receivership. The  
24 Commissioner filed her Verified Petition for Appointment of Commissioner as Receiver and Other  
25 Permanent Relief on March 19, 2019. As detailed in the petition, Lancet qualified for receivership based

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

7 In brief, the Permanent Receivership Order established the following key points for the  
8 receivership:

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

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

## 12 **II. RECEIVERSHIP ADMINISTRATION**

### 13 **A. Notice of Receivership**

14 The Receiver initially distributed notices regarding the Permanent Receivership Order to all  
15 interested parties of Lancet, as detailed in the Receiver’s prior quarterly status reports. On February 5,  
16 2020, the Court entered its Order Regarding Motion for Instructions Including Notice Requirements (the  
17 “Notice Order”). Future notices about Lancet’s receivership will continue to be provided to interested  
18 parties in accordance with the Court’s Notice Order.

### 19 **B. Claims Administration**

20 The April 1, 2021, Claims Filing Deadline has now passed, and Lancet received one hundred nine  
21 (109) timely Proof of Claim (“POC”) submissions.<sup>3</sup> The Special Deputy Receiver is processing the POCs  
22 and has sent out one hundred seven (107) Notices of Claim Determination (“NCD”) as of this report.  
23 Pursuant to the Receivership Appeal Procedure, each NCD recipient had sixty (60) days to object in  
24 writing to the SDR’s determination(s). Seven (7) claimants filed objections to the SDR’s determinations,  
25 and four (4) of these objections pertained to class B policy claims pursuant to NRS 696B.420(1)(b). The  
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28 <sup>3</sup> One timely-filed POC was withdrawn by the submitter, leaving a total of 108 POCs to be processed.

1 remaining three (3) objections pertained to claims assigned to priority classes below Class B (*i.e.*, classes  
2 C-L, pursuant to NRS 696B.420(1)(c)-(l)).

3 The four (4) Class B appeals were heard and resolved, as detailed in the prior Fifteenth Status  
4 Report. The remaining three (3) appeals were resolved by order of the Court entered on July 6, 2023.  
5 Such order, entered on the Receiver's Motion to Approve Claim Priority Assignment, affirmed the  
6 priority assigned by the Receiver to each of the three (3) claims and further ordered that the Receiver  
7 need not further process such claims pursuant to NRS 696B.330(4).<sup>4</sup>

8 The Receiver will next proceed to file a motion for the Court's approval of a Plan of Distribution  
9 for the Class B claims.<sup>5</sup> Such motion will include the Receiver's recommendations pertaining to, *inter*  
10 *alia*, the claims assigned a priority class below Class B, as there are insufficient assets in the estate to  
11 make a distribution for such claims.<sup>6</sup>

12 The Receiver has provided and will continue to provide notice of motions, hearings, and any Final  
13 Orders entered, in accordance with the Court's orders. The relevant notices, reports, and pleadings will  
14 be posted under the "Receivership Documents" section of the receivership web site  
15 ([www.LancetIndemnity.com](http://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 to assist the Receiver with claim matters. As  
19 advised in the Receiver's prior Fifteenth Status Report, the Receiver ceased providing loss run and  
20 credentialing services to Lancet's former policyholders effective December 31, 2022.<sup>7</sup>

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22 <sup>4</sup> All claims in Class B must be paid in full before the members of Class C receive  
23 any payment, and so on. NRS 696B.420(1). There are insufficient estate assets to pay Class  
24 B claims in full. The Receiver "is not required to process any claims in a class until it  
25 appears that assets will be available for distribution to that class." NRS 696B.330(4).

26 <sup>5</sup> A matrix showing all claim determinations for the Lancet estate was attached as  
27 Exhibit A to the previous 16<sup>th</sup> Status Report and will also be included as an exhibit with  
28 the Motion for Approval of a Plan of Distribution.

<sup>6</sup> "...If there are insufficient assets to 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).

<sup>7</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           **C.     Third-Party Support Services**

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

9           The Receiver has received notice from time to time of lawsuits filed against Lancet in violation  
10 of the Court’s Permanent Receivership Order. The Receiver’s established procedure is to write to the  
11 parties involved to inform them of the injunctions of the Permanent Receivership Order, and to request a  
12 voluntary dismissal of Lancet from the matter. Thus far, the majority of counsel have been amenable to  
13 such requests. In limited cases and only when absolutely necessary, the Receiver will engage outside  
14 counsel to address ongoing or repeated violations of this Court’s orders. There are no such pending  
15 violations at this time to the Receiver’s knowledge.

16           **D.     Records & Property**

17           The Receiver previously maintained access to the cloud-based Lancet policy database (*i.e.*, the  
18 Epic system, owned by Applied Systems, Inc.). The Receiver terminated this system effective December  
19 31, 2022, in order to conserve costs, as the software was determined to be no longer necessary.

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

25           **E.     Actuarial Reports**

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

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

7 **F. Reinsurance**

8 The Receiver has worked with Lancet’s reinsurance brokers, Tyser & Co. Ltd. (“Tysers”)  
9 (formerly known as Integro Insurance Brokers Limited), to evaluate Lancet’s reinsurance coverage and  
10 reinsured claims. After a number of commutation agreements were executed in July and August of 2018,  
11 just one reinsurer remained on a small portion of insurance risk for one excess of loss reinsurance contract  
12 (the “XOL”), with most of the XOL reinsurance extinguished and released in 2018. The Receiver, and  
13 Tysers, have reported claims on the XOL contract for the small portion of insurance risk that remained  
14 covered.

15 Lancet also had an Awards Made reinsurance treaty.<sup>8</sup> The Receiver pursued and collected a  
16 reinsurance reimbursement payment due to Lancet, on the *Mora* claim, from the Awards Made treaty  
17 reinsurers. The Receiver reported on the *Mora* claim, and its settlement, in the previous Eighth Status  
18 Report.

19 To date, the Receiver has made reinsurance recoveries totaling \$881,173.39 for the Lancet estate.  
20 With those certain claims and appeals of the estate which are subject to reinsurance coverage having been  
21 finalized, the Receiver, with the assistance of Tysers, recently presented a final reinsurance billing to  
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25 <sup>8</sup> 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 Lancet’s remaining XOL reinsurer. The billing is intended to close out any remaining reinsurance matters  
2 for the Lancet estate. The Receiver will continue to keep the Court apprised of this matter.

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

#### 6 **G. Tax Matters**

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

11 The Receiver has filed Lancet’s federal tax returns for tax years 2019 and 2020, and on October  
12 14, 2021, the Receiver requested tax prompt assessment from the Department of Treasury regarding tax  
13 claims that may exist for tax years 2019 and 2020. The Receiver has filed Lancet’s federal tax return for  
14 tax year 2021, and on December 6, 2022, the Receiver requested tax prompt assessment from the  
15 Department of Treasury regarding tax claims that may exist for tax year 2021. The Department of  
16 Treasury has not yet responded to the Receiver’s prompt assessment requests for tax years 2019, 2020,  
17 and 2021.

#### 18 **H. Receivership Assets and Liabilities**

19 The Receiver has been gathering information and evaluating the assets and liabilities of Lancet.  
20 The claims evaluation is completed, and all Class B claim appeals have been resolved. Lancet’s final  
21 liability for Class B claims is \$2,730,351.47. Lancet’s total liability for *all* classes of claims is  
22 \$3,353,379.98.<sup>9</sup> On September 11, 2019, the Court entered its Order Granting Receiver’s Motion to  
23 Approve Fees and Rates Filed on July 24, 2019. Pursuant to this Order, the Receiver has included an  
24 informational copy, as **Exhibit A** to this Eighteenth Status Report, of the invoices paid to the SDR and  
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28 <sup>9</sup> For class C-L Claims (all other claims outside of Class B), the total liability is \$623,028.51.



1 other receivership consultants since the last status report to this Court.<sup>10</sup> Below is an overview of some  
2 key financial matters for the Lancet receivership.

3 As of May 31, 2023, the approximate liquid assets of the Company were as follows:

- 4 a. Cash in bank total: \$ \$157,507.67
- 5 b. Investments fair market value total: \$1,124,518.16

6 A cash flow report for May 2023 is attached as **Exhibit C**.

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<sup>10</sup> 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 **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 Eighteenth Status Report and the actions taken by the Receiver.

5 DATED: July 19, 2023.

6 Respectfully submitted:

7 By: /s/ CANTILO & BENNETT, L.L.P.  
8 Special Deputy Receiver  
9 By Its Authorized Representative  
Mark F. Bennett

10 KARA B. HENDRICKS, Bar No. 7743  
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16 Email: hendricksk@gtlaw.com

17 *Counsel for Plaintiff*

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 19<sup>th</sup> day of July 2023, I caused a true and correct copy of the  
4 foregoing ***Eighteenth 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 ***Eighteenth Status Report*** to be served via U.S. Mail, postage pre-paid on July 19,  
7 2023, upon the parties listed below:

8  
9 Andrew Carlton  
10 Director of Captive Accounting  
11 Risk Services Companies  
12 1605 Main Street, Suite 800  
13 Sarasota, Florida 34236

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

14 Alan J. Iezzi  
15 15511 North Florida Avenue, Suite D  
16 Tampa, Florida 33613

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

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

17  
18 /s/ Andrea Lee Rosehill  
19 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 Cantilo & Bennett, L.L.P., Palomar Financial, Greenberg Traurig, LLP, Frost Brown Todd, and CRMI	33
B	In Camera Submission to be Filed Separately	107
C	Cash Flow and Disbursements Summary	1

[Exhibits may be requested by contacting the Special Deputy Receiver at 512-478-6000](tel:512-478-6000)