

REC'D & FILED

2015 APR -8 AM 11:20

SUSAN MERRIWETHER
CLERK

BY C. GRIBBLE DEPUTY

1 **3645**
 2 ADAM PAUL LAXALT
 3 Attorney General
 4 RICHARD PAILI YIEN
 5 Deputy Attorney General
 6 Nevada Bar No. 13035
 7 100 North Carson Street
 8 Carson City, NV 89701-4717
 9 (775) 684-1129
 10 (775)684-1156(fax)
 11 Email: ryien@ag.nv.gov
 12 *Attorney for the Division of Insurance*

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CARSON CITY

11 STATE OF NEVADA, EX REL.)	Case No. 14 OC 00114 1B
12 COMMISSIONER OF INSURANCE, IN HIS)	
13 OFFICIAL CAPACITY AS STATUTORY)	Dept. No. 2
14 RECEIVER FOR DELINQUENT DOMESTIC)	
15 INSURER,)	
)	
16)	
17)	
18)	
19)	
20)	

Plaintiff,

vs.

16 PHYSICIANS BENEFIT RESOURCES RISK)	
17 RETENTION GROUP, INC. , a Nevada)	
18 Domiciled Association Captive Insurance)	
19 Company,)	
20)	
21)	
22)	
23)	
24)	
25)	
26)	
27)	
28)	

Defendant

FOURTH STATUS REPORT

22 Scott J. Kipper, Commissioner of Insurance (the "Commissioner") for the State of
 23 Nevada, in his capacity as Permanent Receiver of Physicians Benefit Resources Risk
 24 Retention Group, Inc. ("PBR" or the "Company"), and Regulatory Services Group ("RSG"),
 25 Receivership Manager of PBR, files this Third Status Report in the above-captioned
 26 receivership.

27 ///

28 ///

1
2 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

3 PBR is a captive insurance company operating as a risk retention group, incorporated
4 and organized under the Nevada Insurance laws and the Liability Risk Retention Act of
5 1986. The company is domiciled in the State of Nevada and received its Certificate of
6 Authority on July 20, 2010, and operated under the authority of Nevada Revised Statutes
7 ("NRS") Chapter 694C.

8 The Company wrote professional liability insurance to physicians and their medical
9 groups under claims-made indemnity policies. Ultimately, the Company was unable to collect
10 sufficient premiums to both cover its fixed costs and operate as a viable insurer. To date, it
11 has been able to attract only one doctor group.

12 On December 31, 2012, the Company reported a Capital and Surplus balance of
13 \$149,013. In accordance with NRS 694C.250(1), the company was unable to maintain the
14 required minimum Capital and Surplus balance of \$500,000. As a consequence of failing
15 to restore the minimum Capital and Surplus balance by April 30, 2013, the Company agreed
16 to a voluntary suspension of its Certificate of Authority. On June 26, 2013, the Company
17 filed a run-off plan with the Nevada Division of Insurance to begin the process of closing down
18 operations.

19 On June 12, 2014, the Nevada Insurance Commissioner was appointed as Permanent
20 Receiver of the Company by the First Judicial District Court of the State of Nevada (the
21 "Court"). On June 17, 2014, an Amended Order Appointing Commissioner as Permanent
22 Receiver for Physicians Benefit Resources Risk Retention Group, Inc., Order of Liquidation,
23 and Other Permanent Relief (the "Permanent Receivership and Liquidation Order") was
24 entered by the Court.

25 On June 12, 2014, Commissioner Kipper, as Permanent Receiver of the Company,
26 retained David E. Wilson as Receivership Manager. The Receivership Manager was
27 authorized to retain the services of Scott Pearce of Regulatory Services Group (RSG) as his
28 Receivership Supervisor, and other staff of RSG as necessary. As provided for by the

1 Permanent Receivership and Liquidation Order, the Receiver and Receivership Manager are
2 authorized to conduct the business of the Company and to administer its affairs for the
3 protection of all secured creditors, insureds, policyholders, and general creditors.

4 II. RECEIVERSHIP ADMINISTRATION

5 A. Notices of Receivership and Notification to Interested Parties

6 The Receivership Manager prepared and mailed notices of the receivership proceeding
7 apprising all known, interested parties of the receivership and pending liquidation of the
8 Company. The notice contained contact information for questions and where to find copies of
9 the receivership orders. Additionally, the RSG website was updated with the notice and links
10 to view the permanent receivership and liquidation order.

11 The Receivership Manager also provided formal notice of the receivership, together
12 with a certified copy of the permanent receivership and liquidation order, to Laurence Mohn
13 (CFO, COO, and Director of the Company), Keith Mohn, Dr. John Paul Elliott (a board
14 member of the Company and sole owner of Colorado Brain and Spine institute), and Richard
15 Staub, Esq. (counsel for the Company), as well as all known reinsurers, brokers, reinsurance
16 intermediaries, professional service providers, and any other known stakeholders to the
17 Company. Notices also will be published in newspapers in locations where the Company
18 wrote insurance. Notices continue to be sent to outside vendors and interested parties, as the
19 Receiver becomes aware of them.

20 B. Policyholder Related Claims

21 As of this Fourth Status Report, the Company essentially has addressed the one claim
22 from its sole insured, the Colorado Brain and Spine Institute (the "CBSI"). The Receivership
23 Manager believes that the resolution of the one claim constitutes the entirety of PBR's
24 policyholder claim liability under NRS 696B.420(1)(b). The Company insured CBSI for
25 \$1 million in indemnity coverage. A lawsuit associated with the claim was filed on July 28,
26 2012, in Douglas County District Court, in the State of Colorado, case number 12CV1466 (the
27 "Lawsuit"). On October 8, 2014, mediation commenced in conjunction with the Lawsuit where
28 both counsel for the insured/named Defendant and Plaintiff participated together with the

1 assistance of a mediating Judge. After weeks of continued negotiations, the insured/named
2 Defendant and the Plaintiff entered into a formal settlement agreement on December 10,
3 2014. As part of the settlement terms, the insured Defendant doctor stipulated to the entry of
4 judgment in favor of the Plaintiff in the principal amount of \$1,000,000 with the proviso that the
5 Plaintiff not execute against the insured Defendant doctor but execute only against the
6 proceeds assigned to the liquidation claim of the Defendant doctor, an approved claim of
7 \$1 million.

8 As a result of the settlement and stipulation of judgment, the Receivership Manager,
9 through RSG, prepared and sent a demand to both reinsurers seeking recovery of \$950,000
10 in reinsurance proceeds. The Receivership Manager confirmed receipt of the reinsurance
11 proceeds on December 29, 2014.

12 Upon receipt of the reinsurance proceeds, the Receivership Manager immediately
13 worked with the Nevada Attorney General's office to draft a motion seeking authority
14 to distribute certain funds to the insured. On February 17, 2015, the Nevada Attorney
15 General's Office, on behalf of the Receiver and Receivership Manager, filed a Motion for
16 Order Approving Distribution of Reinsurance Proceeds Pursuant to NRS 696B.420(1
17 ("Distribution Motion"). The Distribution Motion sought approval to distribute \$950,000 to the
18 solitary, approvable claim in the category (b) creditor class, which is the CBSI Class (b) Claim.
19 Further, out of an abundance of caution, the Receiver Manager sought to retain \$50,000
20 of the approved \$1,000,000 policy liability CBSI Class (b) Claim to ensure that the
21 receivership estate has sufficient assets to complete all necessary administrative
22 requirements to properly wind up and close the PBR receivership estate. On February 19,
23 2015 the Court granted an Order Approving Distribution of Reinsurance Proceeds Pursuant
24 to NRS 696B.420(1) ("Distribution Order"). The Distribution Order authorized the Receivership
25 Manager and the PBR receivership estate to immediately distribute \$950,000 in class (b)
26 claims to the third party beneficiary Michael Johnson, prior to payment in full of class (a)
27 claims, as adequate money has been retained by the PBR receivership estate to pay class (a)
28 claims.

1 On February 25, 2015, the Receivership Manager wired \$950,000 to the legal trust
2 account designated by the defendant Michael Johnson. Receipt of good funds was confirmed
3 via email from Mr. Johnson's legal counsel.

4 **C. Reinsurance**

5 The Receivership Manager has billed and collected the entire \$950,000 in reinsurance
6 proceeds due the PBR receivership estate. The Receivership Manager does not anticipate
7 any further reinsurance recoveries.

8 **D. Records and Assets Control**

9 The Receivership Manager is in control of all known books and records of the
10 Company. The majority of the Company records are maintained in electronic form. The
11 Receivership Manager has made contact with all known service providers and consultants
12 working on behalf of the Company at the time of the appointment of the Receiver. The
13 Receivership Manager has set up a secure web-based location to continue to receive any
14 further records or information related to the Company.

15 The Receivership Manager has full control and authority over the Company's sole bank
16 account at Union Bank.

17 **E. Financial Analysis**

18 As of March 31, 2015, the Company held cash of \$114,400, and the Receivership
19 Manager is unaware of any other recoverable assets associated with the PBR estate. The
20 Company has a single \$50,000 policy-level claim remaining to be paid and pre-liquidation
21 service provider expense liabilities estimated to be in excess of \$200,000. The Receiver has
22 incurred approximately \$64,357 in operating expenses from the June 2014 inception of the
23 receivership through February 2015.

24 Based on the recent resolution of the Lawsuit, the Receiver will proceed with noticing
25 and conducting a proof of claim process to fix and determine the Company's approved
26 liabilities, then seek a final distribution and closing order from the Court. While there is not
27 substantial money available for distribution to remaining creditors, a focused Proof of Claim
28 process should not exhaust substantial assets and should result in some distribution to the

1 approved creditors.

2 **III. CONCLUSION**

3 In compliance with the Court's instructions for a status report regarding the affairs of
4 the Company, the Receivership Manager submits this report and remains available to present
5 further on any matters in this report as the Court may deem necessary.

6 **AFFIRMATION**

7 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
8 document, *Fourth Status Report*, filed in this case 14-OC-00114-1B, does not contain the
9 personal information of any person

10 DATED: April 1, 2015

Respectfully submitted:

11 Scott J. Kipper, Commissioner of Insurance
12 of the State of Nevada, in his Official Capacity as
13 Statutory Receiver of Delinquent Domestic Insurers

14 By: 

15 Scott Pearce
16 Regulatory Services Group
17 Receivership Supervisor

18 Respectfully submitted by:

19 ADAM PAUL LAXALT
20 Attorney General

21 By: 

22 RICHARD PAI-LYIEN
23 Deputy Attorney General
24 Nevada Bar No. 13035
25 100 N. Carson St
26 Carson City, NV 89701
27 P: (775) 684-1129
28 Email: ryien@ag.nv.gov

04/08/2015

CERTIFICATE OF SERVICE

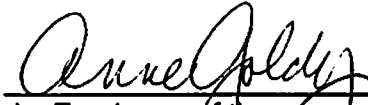
I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 8th day of April 2015, I filed a copy of the foregoing **Fourth STATUS REPORT** by depositing for mailing at Carson City, Nevada, a true and correct copy in first class mail, postage prepaid, fully addressed to:

David E. Wilson
CEO, SDIC
Conservation and Liquidation Office
100 Pine Street, 26th Floor
San Francisco, CA 94111

and via interoffice mail to:

Scott Kipper, Commissioner of Insurance
Attn: Terri Verbrughen
1818 E. College Parkway, Ste. 103
Carson, City, NV 89706

Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717



An Employee of the
Office of the Attorney General

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28