

  
CLERK OF THE COURT

CATHERINE CORTEZ MASTO  
Attorney General  
JOANNA N. GRIGORIEV  
Senior Deputy Attorney General  
Nevada Bar No. 5649  
555 E. Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
(702) 486-3101  
Email: [jgrigoriev@ag.nv.gov](mailto:jgrigoriev@ag.nv.gov)  
*Attorney for the Division of Insurance*

**IN THE EIGHT JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF CLARK**

STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE, IN HIS  
OFFICIAL CAPACITY AS STATUTORY  
RECEIVER FOR DELINQUENT DOMESTIC  
INSURER,

Plaintiff,

vs.

PROAIR Risk Retention Group, Inc.,

Defendant

Case No. A-14-705863

Dept. No. IV

**FIRST STATUS REPORT**

COME NOW, Scott J. Kipper, Commissioner of Insurance (the "Commissioner") for the State of Nevada in his capacity as Permanent Receiver of PROAIR Risk Retention Group, Inc., ("PROAIR" or the "Company"), and Regulatory Services Group ("RSG"), Receivership Manager of PROAIR, and file this first Status Report in the above-captioned receivership.

**I. INTRODUCTION AND HISTORICAL BACKGROUND**

PROAIR is an association captive insurance company operating as a risk retention group under the authority of Nevada Revised Statutes Chapter 694C and is incorporated and organized under the Nevada Insurance laws and the Liability Risk Retention Act of 1986. PROAIR is domiciled in the state of Nevada and received it's Certificate of Authority on July

1 25, 2008. As an association risk retention group, the subscribers of PROAIR operate through  
2 an Attorney-In-Fact, T. Edwards, LLC, a Nevada domestic limited liability company, to enable  
3 the exchange of contracts of insurance among themselves. PROAIR's program provides  
4 liability insurance to its subscribers – pilots and pilot groups specializing in the Air Tractor  
5 industry – on a claims-made basis.

6 PROAIR's June 30, 2014 financial statement, pursuant to NRS 680A.270, reported  
7 total assets of \$511,233 and total liabilities of \$511,902 resulting in negative working capital  
8 of -\$669. As such, PROAIR was unable to meet its requirements to maintain \$500,000 in  
9 minimum capital and surplus in accordance with NRS 694C.250(1). As of December 15, 2014  
10 the PROAIR bank account balance was \$7,087 and the Company had a \$500,000 Letter of  
11 Credit held at Wells Fargo Bank. As a result of PROAIR's insolvency, with no apparent plan  
12 or resources to recapitalize the Company, on July 10, 2014 at a special meeting of the Board  
13 of Directors it was resolved by unanimous vote that in accordance with the bylaws and  
14 subscribers agreement of the Company that the Company's captive manager was authorized  
15 to petition the State of Nevada Division of Insurance to place the Company into voluntary  
16 receivership pursuant to NRS 696B. Further, a formal consent to liquidation by PROAIR's  
17 properly seated board of directors also serves as grounds for liquidation pursuant to NRS  
18 696B.220(6).

19 On November 14, 2014, an Order Appointing the Nevada Insurance Commissioner as  
20 Permanent Receiver of PROAIR. (the "Permanent Receivership Order") was entered by the  
21 Eighth Judicial District Court of the State of Nevada for Clark County (the "Court").

22 On November 6,, 2014, Commissioner Kipper as Permanent Receiver of PROAIR  
23 retained David E. Wilson and Regulatory Services Group ("RSG") as Receivership Manager.  
24 The Receivership Manager was authorized to retain the services of Scott Pearce of RSG as  
25 his Receivership Supervisor. As provided for by the Permanent Receivership and Liquidation  
26 Order, the Receiver and Receivership Manager are authorized to conduct the business of  
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1 PROAIR and to administer its affairs for the protection of all secured creditors, insureds,  
2 policyholders, and general creditors.

3 The Permanent Receivership Order appointed the Commissioner as Permanent  
4 Receiver pursuant to NRS 696B.220 for the purpose of liquidating the business of insolvent  
5 PROAIR<sup>[JNG1]</sup> and granted other permanent relief

## 6 II. RECEIVERSHIP ADMINISTRATION

### 7 A. Notices of Receivership and Notification of Interested Parties

8 The Receivership Manager prepared and mailed notices of the receivership proceeding  
9 apprising interested parties of the receivership and pending liquidation of PROAIR. The  
10 notice contained contact information for questions and where to find copies of the receivership  
11 orders. Additionally, the Regulatory Services Group website was updated with the notice and  
12 links to view and obtain copies of the permanent receivership order.

13 The Receivership Manager also served a certified copy of the permanent receivership  
14 order on the Company's depository banking partner Well Fargo Bank. The Receivership  
15 Manager and Receivership Supervisor are still working directly with Wells Fargo to comply  
16 with all required security and legal disclosures to complete the transfer of PROAIR's sole bank  
17 account. Wells Fargo has indicated they intend to close the existing account and reopen a  
18 new account under the Receiver's control. The Receivership Manager will continue to work to  
19 complete the transfer of the bank account and to secure the \$500,000 Letter of Credit also  
20 held by Wells Fargo. <sup>[JNG2]</sup>

21 Counsel for the Receiver and RSG together provided notice of the receivership and  
22 copies of the permanent receivership and liquidation order to both Constance Akridge, Esq.,  
23 counsel for Risk Services LLC., ("RSG") and Corporation Service Company ("CSC") in their  
24 capacities as registered agents of service for PROAIR. In addition, RSG delivered copies of  
25 the Permanent Receivership Order to Trevor Edwards and T. Edwards, LLC as the Attorney-  
26 In-Fact of PROAIR; Morris, Manning and Martin, LLP in their capacity as legal counsel to  
27 Mr. Edwards as Attorney-In-Fact for PROAIR; all members of the Board of Directors of  
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1 PROAIR; all known subscribers to PROAIR as well as all known reinsurers, brokers,  
2 reinsurance intermediaries, professional service providers and any other known stakeholders  
3 to PROAIR. Notices will also be published in newspapers in locations where PROAIR wrote  
4 insurance

5 **B. Policyholder Related Claims**

6 As of June 30, 2014 (the last financial statement prepared by Risk Services, LLC the  
7 Captive Manager of PROAIR) PROAIR reported five open claims totaling \$320,731 in  
8 estimated policy liability. PROAIR insured each of the claimants for liability coverage. Notice  
9 of the PROAIR receivership has been provided to all known claimants and subscribers of  
10 PROAIR. PROAIR's open claims are not covered by any insurance guaranty statutes but  
11 the Company has a reinsurance program in place that may serve to pay a portion of any  
12 claims exposure or other claim-related obligations that may result from the open claims. The  
13 Receivership Manager will review and monitor the open claims and any legal cases that may  
14 result from the claims and will seek to address any obligations that may arise in accordance  
15 with the Receivership Order and PROAIR's limited resources. The Receivership Manager is  
16 still working to compile a complete set of legal and/or open claim files for the Company.  
17 Based upon initial discussions with Mr. Edwards and his counsel, all claims related documents  
18 and correspondence [JNG3] were handled by Mr. Edwards who is currently working with RSG  
19 staff to complete the transfer all claim related files to RSG. The Receivership Manager will  
20 make it a priority to gain a complete record of each open claim and case facing the Company.

21 **C. Records and Assets Control**

22 The Receivership Manager has essentially completed the process of taking control and  
23 possession of PROAIR's books and records, both tangible and electronic. The majority of  
24 PAIR's records are maintained in electronic form, and were held by its captive manager Risk  
25 Services, LLC or by the Company's Attorney-In-Fact, Trevor Edwards of T. Edwards, LLC.  
26 The Receivership Manager has made contact with and conducted interviews with Risk  
27 Services Group LLC, Mr. Edwards as well as counsel to Mr. Edwards. The Receivership  
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1 Manager has set up a secure web-based location to have all of PROAIR's books and records  
2 transferred to. As a result of certain records being held by parties in various states, the  
3 process of collecting all of PROAIR's documents and information is requiring additional time  
4 and effort. As mentioned above the Receivership Manager will continue to compile a  
5 comprehensive record of the Company's books and records.

6 In addition to records control, the Receivership Manager is actively working to take  
7 control of PROAIR's bank account. The Receivership Manager has provided formal notice of  
8 the PROAIR Receivership Order to the Company's banking partner, Wells Fargo Bank as well  
9 as providing the necessary engagement documents authorizing the Receivership Manager to  
10 act on behalf of the Receiver. The Receivership Manager is in the process of working with the  
11 bank's legal/compliance unit to change over account control and signatory access to  
12 PROAIR's bank account at Wells Fargo. Wells Fargo's legal unit is now in possession of a  
13 certified copy of the PROAIR receivership order as a requirement to transfer control of the  
14 account to the Receivership Manager.

#### 15 **D. Financial Analysis**

16 According to the December 1, 2014 check register provided by Risk Services, LLC the  
17 Wells Fargo checking account for PROAIR had liquid assets of \$7,078. In addition PROAIR  
18 has a \$500,000 irrevocable letter of credit, also held by Wells Fargo as custodian, resulting in  
19 total cash or cash equivalent assets of \$507,078. Additionally, as reported by Risk Services  
20 LLC, at December 1, 2014 PROAIR had no claims exceeding the retention threshold of its  
21 reinsurance treaties, as a result there is no known recoveries associated with the reinsurance  
22 program at this time. As such PROAIR reports total assets of \$507,078 as of December 1,  
23 2014. As of June 30, 2014 (the last financial statement prepared for PROAIR by Risk  
24 Services, LLC) PROAIR reported \$511,902 in claim and expense liabilities. Based on the  
25 impaired financial condition of the Company, the Receiver will need time to determine the  
26 ultimate obligations of the Company and determine if sufficient assets are available through  
27 reinsurance, assessment and cash on hand to pay all or a portion of the Company's creditors.  
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**CONCLUSION**

In compliance with NRS 696B.290(7), the Receivership Manager submits the  
aforementioned report and respectfully requests that this Court approve this status report and  
the actions of the Receiver and Receivership Manager.

DATED: December 29, 2014.

Respectfully submitted:

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

By: /s/ Scott Pearce  
Scott Pearce  
Regulatory Services Group  
Receivership Supervisor

Respectfully submitted by:

CATHERINE CORTEZ MASTO  
Attorney General

By: /s/ Joanna N. Grigoriev  
Joanna N. Grigoriev  
Senior Deputy Attorney General  
*Attorneys for the Commissioner of Insurance as Receiver*

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General and that on the 29<sup>th</sup> day of December, 2014 I served a copy of the foregoing First Status Report via US Mail addressed as follows:

CSC Services of Nevada, Inc.  
2215-B Renaissance Drive  
Las Vegas, NV 89119

RSG Services, LLC  
c/o Constance Akridge, Esq.  
Holland & Hart, LLP  
9555 Hillwood Drive, 2<sup>nd</sup> Floor

/s/ Marilyn Millam  
An Employee of the Office of the Attorney General