



CLERK OF THE COURT

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8 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

9 **IN AND FOR THE COUNTY OF CLARK**

10 STATE OF NEVADA, EX REL.
11 COMMISSIONER OF INSURANCE, IN HER
12 OFFICIAL CAPACITY AS STATUTORY
13 RECEIVER FOR DELINQUENT DOMESTIC
14 INSURER,

13 Plaintiff,

14 vs.

15 PROAIR Risk Retention Group, Inc.,

16 Defendant

Case No. A-14-7-705863

Dept. No. IV

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19 **FOURTH STATUS REPORT**

20 COME NOW, Amy L. Parks, Acting Commissioner of Insurance (the "Commissioner")
21 for the State of Nevada in her capacity as Permanent Receiver of PROAIR Risk Retention
22 Group, Inc., ("PROAIR" or the "Company"), and Regulatory Services Group ("RSG"),
23 Receivership Manager of PROAIR, and file this Fourth Status Report in the above-captioned
24 receivership.

25 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

26 PROAIR was an association captive insurance company operating as a risk retention
27 group under the authority of Nevada Revised Statutes Chapter 694C and was incorporated
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1 and organized under the Nevada Insurance laws and the Liability Risk Retention Act of 1986.
2 PROAIR is domiciled in the state of Nevada and received it's Certificate of Authority on July
3 25, 2008. As an association risk retention group, the subscribers of PROAIR operated
4 through an Attorney-In-Fact, T. Edwards, LLC, a Nevada domestic limited liability company, to
5 enable the exchange of contracts of insurance among themselves. PROAIR's program
6 provided liability insurance to its subscribers – pilots and pilot groups specializing in the Air
7 Tractor industry.

8 PROAIR's June 30, 2014 financial statement, pursuant to NRS 680A.270, reported
9 total assets of \$511,233 and total liabilities of \$511,902 resulting in negative working capital
10 of -\$669. As such, PROAIR was unable to meet its requirements to maintain \$500,000 in
11 minimum capital and surplus in accordance with NRS 694C.250(1). As of December 15, 2014
12 the PROAIR bank account balance was \$7,087 and the Company had a \$500,000 Letter of
13 Credit held at Wells Fargo Bank. As a result of PROAIR's insolvency, with no apparent plan
14 or resources to recapitalize the Company, on July 10, 2014 at a special meeting of the Board
15 of Directors it was resolved by unanimous vote that in accordance with the bylaws and
16 subscribers agreement of the Company that the Company's captive manager was authorized
17 to petition the State of Nevada Division of Insurance to place the Company into voluntary
18 receivership pursuant to NRS 696B. Further, the formal consent to liquidation by PROAIR's
19 properly seated board of directors also serves as grounds for liquidation pursuant to NRS
20 696B.220(6).

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

24 On November 6, 2014, Commissioner Scott J. Kipper as Permanent Receiver of
25 PROAIR retained David E. Wilson and Regulatory Services Group ("RSG") as Receivership
26 Manager. The Receivership Manager was authorized to retain the services of Scott Pearce of
27 RSG as his Receivership Supervisor. As provided for by the Permanent Receivership and
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Office of the Attorney General

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

4 The Permanent Receivership Order appointed the Commissioner as Permanent
5 Receiver pursuant to NRS 696B.220 for the purpose of liquidating the business of insolvent
6 PROAIR and granted other permanent relief

7 **II. RECEIVERSHIP ADMINISTRATION**

8 **A. Notices of Receivership and Notification of Interested Parties**

9 The Receivership Manager continues to provide notice of the receivership proceeding
10 apprising any known interested parties or claimants of the receivership and pending
11 liquidation of PROAIR. Additionally, the Regulatory Services Group website is periodically
12 updated with any material developments and information as well as links to view and obtain
13 copies of the permanent receivership order and any subsequent pleadings filed in the
14 PROAIR receivership.

15 Counsel for the Receiver and RSG together continue to receive and address periodic
16 inquiries from stakeholders or interested parties that have been provided notice of the
17 receivership and/or received a Proof of Claim ("POC") form. As reported in a prior PROAIR
18 status filing with the Court copies of the permanent receivership and liquidation order have
19 been served upon both Constance Akridge, Esq., counsel for Risk Services LLC., and the
20 Corporation Service Company ("CSC") in their capacities as the former captive manager and
21 registered agent of service respectively for PROAIR. In addition, RSG delivered copies of the
22 Permanent Receivership Order to Trevor Edwards and T. Edwards, LLC as the Attorney-In-
23 Fact of PROAIR; Morris, Manning and Martin, LLP in their capacity as legal counsel to Mr.
24 Edwards as Attorney-In-Fact for PROAIR; all members of the Board of Directors of PROAIR;
25 all known subscribers to PROAIR as well as all known reinsurers, brokers, reinsurance
26 intermediaries, professional service providers and any other known stakeholders to PROAIR.
27 The Receiver published legal notice of the permanent receivership proceeding in the Wall
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1 Street Journal as PROAIR wrote insurance in several different areas of the country. The
2 national publication was completed as part of the proof of claims ("POC") process.

3 **B. Policyholder Related Claims**

4 On February 3, 2015 the Receivership Manager mailed Proof of Claim packets to all
5 known potential creditors of PROAIR. A Claims Bar Date of July 31, 2015 was established. As
6 of the bar date seven (7) policyholder claims were received; however, one policyholder
7 returned a notice indicating two additional potential unresolved claims. Late filing approval
8 notice has been given to those two potential claimants, and a bar date of November 16, 2015
9 was established for their claims. A total liability of \$457,484.41 was claimed in the initial
10 policyholder class of returned claims. Final policyholder liability will be determined after
11 completion of the Receivership Manager's evaluation of all properly submitted claims through
12 the Proof of Claim process. (See Exhibit "A" for listing of all filed claims as required by NRS
13 696B.330(6)).

14 Thirteen additional claims were timely filed, but they all appear to be in priority levels
15 (NRS 696B.420) below the policyholder level Class (b) claims, and these claims will not be
16 evaluated until the policyholder class claims are determined (see NRS 696B.330 (4)).

17 PROAIR insured policyholders for liability coverage. PROAIR's open claims are not
18 covered by any insurance guaranty statutes but the Company has a reinsurance program in
19 place that may serve to pay a portion of any claims exposure or other claim-related obligations
20 that may result from the open claims.

21 **C. General Creditor and/or Other Enterprise Claims**

22 As noted above, thirteen (13) non-policyholder claims were filed, but will not be
23 determined until the policyholder class of claims is resolved, and it is determined that there
24 are assets available to pay to these lower class of claims.

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1 **D. Proof of Claim Process**

2 The Receivership Manager has made contact with all policyholder level claims
3 submitted, plus the two potential claims that are as yet unsubmitted. The Receiver Manager
4 will attempt to reach an agreed resolution with each of the claimants after developing all the
5 necessary information for evaluating their claims. These are liability claims, generally devoid
6 of coverage issues, but certainly subject to ranges of alleged damages. It will be prudent and
7 efficient for the Receiver Manager to achieve agreed resolutions rather than engaging in a
8 contentious process to resolve these matters.

9 **E. Reinsurance**

10 Of the known policy-related POCs received, none appear to have incurred losses that
11 would exceed PROAIR's retention threshold under the applicable reinsurance treaty. Under
12 the 2013 treaty, approved claims are recoverable from London reinsurers in the amount of
13 \$650,000 in excess of a \$350,000 retention per each loss. In addition, PROAIR owes
14 reinsurers the 4Q13 premium deposit (reflected in the Class (g) section of Exhibit "A").

15 **F. Records and Assets Control**

16 The Receivership Manager has control of PROAIR's known books and records, both
17 tangible and electronic. The majority of PROAIR's records are maintained in electronic form,
18 and were held by its captive manager Risk Services, LLC or by the Company's Attorney-In-
19 Fact, Trevor Edwards of T. Edwards, LLC. Although many of PROAIRs records were being
20 held by different parties in various states, the process of collecting all of PROAIR's documents
21 and information is essentially complete and the Receivership Manager has compiled what
22 appears to be a comprehensive collection of the risk retention group's known books and
23 records.

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1 In addition to records control, the Receivership Manager has control over PROAIR's
2 bank account at Wells Fargo Bank. The Receivership Manager has not located and is not
3 aware of any other material assets beyond the current Wells Fargo Bank account balance
4 belonging to PROAIR with the potential exception of the reinsurance program that may serve
5 to pay a portion of any approved policy related claims. The Receivership Manager will seek
6 recovery of the reinsurance upon determination of the policy related claims where such claims
7 exceed the treaty retention level. Actual reinsurance collections will be determined as policy
8 claims are determined through the POC process and any resulting cessions are prepared and
9 submitted through the broker to the reinsurers.

10 **G. Financial Analysis**

11 As of August 31, 2015 PROAIR's Wells Fargo Bank account had a balance of
12 \$405,242. The Receivership Manager also holds a \$50,000 retainer. Through August 31,
13 2015 the Receivership Manager has incurred \$73,937 in administration expenses, including
14 incurred but unpaid expenses. Considering the current cash assets less \$24,263 in incurred
15 but unpaid administrative expenses PROAIR has as of August 31, 2015 total current cash
16 assets of approximately \$430,979 (including retainer). At August 31, 2015 PROAIR estimates
17 well in excess of \$457,000 in both policy related claims and enterprise/vendor expense
18 liabilities.

19 The Receivership Manager had a receipt and disbursement review performed by a third
20 party vendor for all amounts received and paid by the receivership estate from the date of the
21 liquidation to December 31, 2014. The review was performed to determine whether the
22 receipts and disbursements of the receivership estate were properly supported and accounted
23 for. The review identified one finding related to the timing of payment of certain invoices.
24 While acting in the capacity of Receivership Manager RSG must submit incurred expenses for
25 both regulatory and judicial approval prior to payment. The delay in paying the incurred but
26 unpaid invoices is due to the time necessary to gain the necessary approvals. The report
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1 concluded that all invoices and expenses were properly supported and accounted for. The
2 finding related to the timing of payment is not deemed to be material.

3 As reported above after determining the ultimate claim and creditor obligations of the
4 risk retention group and any associated recovery of reinsurance assets for claims that may
5 pierce the retention level of the applicable treaty, the Receivership Manager will seek court
6 approval to distribute PROAIR's remaining assets in accordance with NRS 696B.420.

7 **III. CONCLUSION**

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

11 DATED this 1st day of October, 2015.

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13 Respectfully submitted:

14 Amy L. Parks, Acting Commissioner of Insurance
15 of the State of Nevada, in his Official Capacity as
16 Statutory Receiver of Delinquent Domestic Insurers

17 By: /s/ Scott Pearce
18 Scott Pearce
19 Regulatory Services Group
20 Receivership Supervisor

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22 Respectfully submitted by:

23 ADAM PAUL LAXALT
24 Attorney General

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

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2 **CERTIFICATE OF SERVICE**

3 I hereby certify that I am an employee of the State of Nevada, Office of the Attorney
4 General and that on the 1st day of October, 2015 I served the foregoing FOURTH STATUS
5 REPORT addressed as follows:

6
7 Constance Akridge, Esq.
8 Holland & Hart, LLP
9 9555 Hillwood Drive, 2nd Floor
10 Las Vegas, NV 89134

11 /s/ Marilyn Millam
12 An employee of the Office of the Attorney General
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EXHIBIT A

EXHIBIT A

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PROAIR FILED POCs

POC No.	Claimant Name	Claimed Amount	Returned Date	Probable Priority	Status
400052	Gallatin Grown, LLC	\$ 107,231.18	7/10/2015	b	In Discussion
400098	Benny White Flying Service	\$ 101,706.83	3/31/2015	b	PAIR Claim-Not PROAIR
400107	Countryside Aviation, LLC	\$ -	7/31/2015	b	Possibly no claim*(below)
400117	Headwaters Flying Service	\$ -	3/27/2015	b	In Discussion
400132	O'Brien Flying Service	\$ 212,573.70	4/27/2015	b	In context of Crest claim
400141	Rusty's Flying Service	\$ 35,972.70	2/24/2015	b	Approved \$35,972.70
400146	STEIER AG AVIATION, INC.	\$ -	5/11/2015	b	Possible claim-not pursued
	TOTAL	\$ 457,484.41		b	
400073	Nevada Division of Insurance	\$ 826.21	2/9/2015	e	Exam Fees
400017	Illinois State Treasurer	\$ -	2/9/2015	e	Zero \$ claim presented
400155	Risk Services, LLC	\$ 11,965.14	6/5/2015	g	Management Fees
400160	LLOYD'S UNDERWRITER SYND NO. 2010MMX	\$ 26,137.50	5/19/2015	g	Reinsurance-Premium
400161	ATRIUM AVIATION CONSORTIUM, NO. 9563	\$ 8,712.50	5/19/2015	g	Reinsurance-Premium
400162	XL RE EUROPE LIMITED	\$ 26,137.50	5/19/2015	g	Reinsurance-Premium
400163	HANNOVER RUCKVERSICHERUNG AKTIEN	\$ 6,648.75	6/30/2015	g	Reinsurance-Premium
400166	SCOFIELD GERARD POHORELSKY GALLAUGHER & LANDRY	\$ 64,329.00	7/21/2015	g	Attorney Fees
400044	MORRIS, MANNING & MARTIN, LLP-ROBERT H. MYERS JR	\$ 29,533.17	4/20/2015	g	Attorney Fees
400045	Stockwell, Sievert, Viccellio, Clements, & Shaddock, LLP	\$ 4,120.50	2/9/2015	g	Attorney Fees
400116	Hartley Flying Service, Inc.	\$ 4,713.25	4/11/2015	k	Equity Claim
400100	Blackstone Aerial Spraying	\$ 2,100.00	3/24/2015	k	PAIR claim-not PROAIR
400153	Trevor Edwards & Jim Hirsch	\$ 725,000.00	7/13/2015	k	Equity Claim
		\$ 1,367,707.93			
*	November 16 Bar Date Potential Claims				
	Fields v. Countryside	\$ -		b	Claim Forthcoming
	Van Dalen v. Countryside	\$ -		b	Claim Forthcoming