

  
CLERK OF THE COURT

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11  
12 *Attorney for the Division of Insurance*

13 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

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

15 STATE OF NEVADA, EX REL. )Case No. A-14-7-705863  
16 COMMISSIONER OF INSURANCE, IN HER )  
17 OFFICIAL CAPACITY AS STATUTORY )Dept. No. IV  
18 RECEIVER FOR DELINQUENT DOMESTIC )  
19 INSURER, )  
20 Plaintiff, )  
21 vs. )  
22 PROAIR Risk Retention Group, Inc., )  
23 Defendant )  
24 )  
25 )  
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29 **TENTH STATUS REPORT**

30 COME NOW, Barbara Richardson, Commissioner of Insurance (the "Commissioner") for the  
31 State of Nevada in her capacity as Permanent Receiver of PROAIR Risk Retention Group, Inc.,  
32 ("PROAIR" or the "Company"), and Regulatory Services Group ("RSG"), Receivership Manager of  
33 PROAIR, and file this Tenth Status Report in the above-captioned receivership.

34 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

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

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

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

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

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

## 4 II. RECEIVERSHIP ADMINISTRATION

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

6 The Receivership Manager continues to provide information of the receivership proceeding to  
7 known interested parties or claimants of the receivership. The Claims Bar Date was 7/31/2015 and most  
8 current inquiries involve filed claims. The Receiver published legal notice of the permanent  
9 receivership proceeding in the Wall Street Journal as PROAIR wrote insurance in several different  
10 areas of the country. The national publication was completed as part of the proof of claims ("POC")  
11 process. Additionally, the Regulatory Services Group website is periodically updated with any material  
12 developments and information as well as links to view and obtain copies of the permanent receivership  
13 order and any subsequent pleadings filed in the PROAIR receivership.

### 14 B. The Claims Process

15 On February 3, 2015 the Receivership Manager mailed Proof of Claim ("POC") packets to all  
16 known potential creditors of PROAIR with a Claims Bar Date of July 31, 2015. As of the bar date the  
17 estate had received eight Class (b) policyholder claims (NRS 696B.420). Subsequent to the bar date the  
18 estate received notice from a policyholder of two additional claims being asserted against Proair. After  
19 considering the late tender the Receivership Manager approved the late filing of the two additional  
20 claims and established an extended bar date of November 16, 2015. Both claimants subsequently  
21 submitted timely proofs of claim. As of January Proair has received proofs of claim totaling  
22 \$1,492,484.41 in the policyholder class of returned claims. To date the Receivership Manager has  
23 approved approximately \$197,000 in submitted policyholder class claims.

24 PROAIR policies contained defense coverage and certain claims or certain portions of claims  
25 for unpaid defense attorney fees have been determined to be Class (b) claims. All attorney fee claims  
26 have now been analyzed and properly categorized.

1 Final policyholder class liability has essentially been determined and the estate is in the process  
2 of issuing final notifications on certain claims. The Receivership Manager has also received and  
3 approved one class (e) priority claim in the amount of \$826 and ten class (g) priority claims of which  
4 \$78,647 has been approved. As mentioned above some portion of certain class (g) defense coverage  
5 fees have been reclassified to the policyholder level of priority (b).(See Exhibit "A" for listing of all  
6 filed claims as required by NRS 696B.330 (6).

7 It appears that cash assets will be available to pay 100% of all claims through Class (g).  
8 Therefore the Receiver Manager has evaluated and approved claims through the Class (g) priority.

9 **C. Completion of Proof of Claim Process**

10 All Proofs of Claim have been addressed complying with the claims review process articulated  
11 in NRS 696B.330 (7). Since the last status report the two claims that remained open have been  
12 resolved as follows:

13 a. The Countryside Aviation claim was initially filed as contingent and undetermined. The  
14 Receiver made numerous requests to Countryside to articulate a claim. Countryside  
15 failed to respond. Therefore, the Receiver rejected their claim and advised Countryside  
16 of their right to dispute the Receiver's determination pursuant to NRS 696B.330(7).

17 b. The Scofield law firm claim for attorney fees has been compromised, settled and  
18 approved for \$30,000.00

19 **D. Reinsurance**

20 The reinsurance function was completed during the second quarter of 2016.

21 **E. Records and Assets Control**

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

1 In addition to records control, the Receivership Manager has control over PROAIR's bank  
2 account at Wells Fargo Bank. The Receivership Manager has not located and is not aware of any other  
3 material assets beyond the current Wells Fargo Bank account balance belonging to PROAIR with the  
4 potential exception of the reinsurance program that may serve to pay a portion of any approved policy  
5 related claims.

6 **F. Financial Analysis**

7 As of January 31, 2017 PROAIR's Wells Fargo Bank account had a balance of \$342,120. The  
8 Receivership Manager also holds a \$50,000 retainer. Through January 31, 2017 the Receivership  
9 Manager has incurred \$118,957 in administration expenses, including incurred but unpaid expenses.  
10 Considering the current cash assets less \$5,102 in incurred but unpaid administrative expenses  
11 PROAIR has as of January 31, 2017 total current cash assets of approximately \$387,018 (including  
12 retainer). At January 31, 2017 PROAIR estimates that its total current cash assets should be sufficient  
13 to cover both policy related claims and enterprise/vendor expense liabilities.

14 The Receivership Manager has completed the receipt and disbursement review performed by a  
15 third party vendor for all amounts received and paid by the receivership estate from the date of the  
16 liquidation to December 31, 2016. The review had no adverse findings and the Receivership Manager  
17 is awaiting the final draft of the review report.

18 Pending completion of certain notifications to claimants and finalizing a few remaining  
19 administrative tasks, the Receivership Manager intends to seek court approval to distribute PROAIR's  
20 remaining assets in accordance with NRS 696B.420 in the next quarter.

21 **III. CONCLUSION**

22 In compliance with NRS 696B.290(7), the Receivership Manager submits the aforementioned

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1 report and respectfully requests that this Court approve this status report and the actions of the Receiver  
2 and Receivership Manager.

3 DATED this 29<sup>th</sup> day of March, 2017.

4 Respectfully submitted:

5 Barbara Richardson, Commissioner of Insurance  
6 of the State of Nevada, in her Official Capacity as  
7 Statutory Receiver of Delinquent Domestic Insurers

8 By: /s/ Scott Pearce  
9 Scott Pearce  
10 Regulatory Services Group  
11 Receivership Supervisor

12 Respectfully submitted by:

13 ADAM PAUL LAXALT  
14 Attorney General

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

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General  
21 and that on the 29<sup>th</sup> day of March, 2017 I served the foregoing TENTH STATUS REPORT addressed  
22 as follows:

23 Constance Akridge, Esq.  
24 Holland & Hart, LLP  
25 9555 Hillwood Drive, 2<sup>nd</sup> Floor  
26 Las Vegas, NV 89134

27 /s/ Marilyn Millam  
28 An employee of the Office of the Attorney General

# EXHIBIT A

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### PROAIR FILED POC STATUS

POC No.	Claimant Name	Claimed Amount	Approval Amount	Priority	Status
400052	Gallatin Grown, LLC	\$ 107,231.18	\$40,000.00	b	Approved
400098	Benny White Flying Service	\$ 101,706.83	\$0.00	b	PAIR Claim-Not PROAIR
400107	Countryside Aviation, LLC*	\$0.00	\$0.00	b	Rejected
400117	Headwaters Flying Service	\$ 35,000.00	\$35,000.00	b	Approved
400132	O'Brien Flying Service	\$ 212,573.70	\$76,522.17	b	Approved
400141	Rusty's Flying Service	\$ 35,972.70	\$35,972.70	b	Approved
400146	STEIER AG AVIATION, INC.	\$ -	\$0.00	b	PAIR Claim-Not PROAIR
400167	Fields & Van Dalen	\$ 1,000,000.00	\$0.00	b	Rejected; 7/23/16 FinalAppeal Date
400044	MORRIS, MANNING & MARTIN, LLP-ROBERT H. MYERS JR **	\$ -	\$5,311.50	b	Approved
<b>TOTAL</b>		<b>\$ 1,492,484.41</b>	<b>\$192,806.37</b>		
400073	Nevada Division of Insurance	\$ 826.21	\$826.21	e	Exam Fees; Approved
400017	Illinois State Treasurer	\$ -	\$0.00	e	Zero \$ claim presented
			<b>\$826.21</b>		
400155	Risk Services, LLC	\$ 11,965.14	\$11,965.14	g	Management Fees/Apr
400160	LLOYD'S UNDERWRITER SYND NO. 2010MMX	\$ 26,137.50	\$7,710.00	g	Reinsurance-Premium /Apr
400161	ATRIUM AVIATION CONSORTIUM, NO. 9563	\$ 8,712.50	\$2,570.00	g	Reinsurance-Premium /Apr
400162	XL RE EUROPE LIMITED	\$ 26,137.50	\$7,710.00	g	Reinsurance-Premium /Apr
400163	HANNOVER RUCKVERSICHERUNG AKTIEN	\$ 6,648.75	\$7,710.00	g	Reinsurance-Premium /Apr
400166	SCOFIELD GERARD POHORELSKY GALLAUGHER & LANDRY	\$ 64,329.00	\$30,000.00	g	Attorney Fees
400044	MORRIS, MANNING & MARTIN, LLP-ROBERT H. MYERS JR **	\$ 29,533.17	\$6,856.50	g	Attorney Fees-Class g portion
400045	Stockwell, Sievert, Viccellio, Clements, & Shaddock, LLP	\$ -	\$4,125.00	g	Approved
400165	Crowley Fleck	\$ 10,000.00	\$0.00	g	Rejected claim
400164	Fred Begy	\$0.00	\$0.00	g	No formal claim submitted
			<b>\$78,646.64</b>		
400116	Hartley Flying Service, Inc.	\$ 4,713.25	\$0.00	k	Equity Claim
400100	Blackstone Aerial Spraying	\$ 2,100.00	\$0.00	k	PAIR claim-not PROAIR
400153	Trevor Edwards & Jim Hirsch	\$ 725,000.00	\$0.00	k	Equity Claim
		\$ 2,408,587.43			

\*Countryside filed based on potential direct claim (Direct Action State). We had to send claim form with new bar date to potential claimant, but no direct claim against policyholder was ever filed. Policyholder was sent letter advising that claim must be liquidated by 7/23/16 or else to be rejected.

\*\* Some portion of this claim will be approved as Class (b) with remainder as a Class (g)