

STATE OF VERMONT
WASHINGTON COUNTY, SS

 COMMISSIONER OF THE
 DEPARTMENT OF FINANCIAL
 REGULATION
 PLAINTIFF,

v.

DOCTORS AND SURGEONS
 NATIONAL RISK RETENTION GROUP
 IC, INC.
 RESPONDENT.

SUPERIOR COURT
 DOCKET NO. 559-916 Wncv

LIQUIDATOR’S STATUS REPORT AND FIRST REPORT OF CLAIMS

I, J. David Leslie, Special Deputy Liquidator, hereby submit this status report regarding the liquidation of Doctors and Surgeons National Risk Retention Group IC, Inc. (“DSNRRG” or the “Company”) as well as this First Report of Claims, attached hereto as Exhibit A.

1. **Background.** DSNRRG was placed in rehabilitation by the Court’s Order for Rehabilitation of Doctors and Surgeons National Risk Retention Group IC, Inc. (“Rehabilitation Order”) entered on October 6, 2016. On August 10, 2017, the Court entered its Order of Liquidation (“Liquidation Order”) that, among other things, appointed the Commissioner of the Department of Financial Regulation as Liquidator (“Liquidator”), authorized him to appoint a special deputy liquidator, and approved the Plan of Liquidation. See Order of Liquidation ¶¶ 1, 5, 6, and 7. The Liquidator appointed me to serve as Special Deputy Liquidator on August 17, 2017.

2. On August 20, 2018, I submitted the Liquidator’s Annual Accounting and Status Report (“2018 Annual Report”) which presented the Company’s assets, described the proofs of

claim filed and the work of the claims adjudicator, and proposed that the Liquidator submit his first report of claims in January of 2019. (As with other status reports, the 2018 Annual Report was posted on the Company's former website, www.dsnrrg.com.) The Court entered an order accepting the 2018 Annual Report on August 22, 2018.

3. DSNRRG Assets. As of December 31, 2018, DSNRRG held assets totaling \$3.3 million. Of these assets, \$440,964 were in the form of cash or cash equivalents and \$2.9 million were held in government agency, municipal or corporate bonds. A substantial portion of the estate's investments matured on December 31, 2018 (\$1.9 million), and they have since been reinvested in short-duration assets (U.S. Government securities with an average six month duration).

4. Filing of Proofs of Claim. The Liquidator established February 12, 2018 as the claim filing deadline. See Liquidation Order, ¶ 6.B. The Liquidator received 114 proofs of claim before the February 12, 2018 deadline and thirty-one late-filed claims for a total of 145 proofs of claim received. No new claims have been filed since submission of the 2018 Annual Report.

5. The Liquidator remains prepared to accept, acknowledge, and investigate late-filed claims because doing so would not delay the liquidation process, impose undue expense, or otherwise threaten the orderly administration of the estate. See 8 V.S.A. § 7074(d) ("The liquidator may consider any claim filed late" so long as doing so "does not prejudice the orderly administration of the estate.") The proceeding is no longer at an early stage, however, and the acceptance of late-filed claims will become increasingly difficult as the liquidation process continues.

6. Work of the Claims Adjudicator. On October 24, 2017, as contemplated by ¶ 2.c of the Plan of Liquidation, the Liquidator engaged Patrick M. McGrath of McGrath Associates

Claims & Risk Services, Inc., to serve as claims adjudicator. Through January 28, 2019, the Special Deputy Liquidator has referred sixty-five proofs of claim to Mr. McGrath for investigation and valuation. Mr. McGrath reviews each claim and presents the Special Deputy Liquidator with an initial report providing background, analysis, and recommendations. Mr. McGrath has now produced initial reports regarding all of the timely-filed proofs of claim presenting questions of medical malpractice.

7. The Special Deputy Liquidator reviews Mr. McGrath's reports and takes such further action as may be appropriate. These actions may include asking that claimants/policyholders produce supplemental information, monitoring the progress of underlying medical malpractice litigation, authorizing Mr. McGrath to initiate settlement discussions, or issuing notices of determination where settlement either is agreed or proves impractical. Mr. McGrath updates his reports and analysis regularly as additional information is received.

8. Liquidator's First Report of Claims. As of January 28, 2019, the Liquidator had issued notices of determination regarding sixty-nine of the 145 claims received. (A further eight claims have been voluntarily withdrawn.) "Within 60 days from the mailing of the notice [of determination], the claimant may file objections with the liquidator" and "[i]f no such filing is made, the claimant may not further object to the determination." 8 V.S.A. § 7078(a). That 60-day period has run without objection with regard to forty-four of the determined claims. (There are a further twenty-three proofs of claim for which the Liquidator has issued a notice of determination for which the objection period has not yet run.) The forty-four finally determined claims are reported in the Liquidator's First Report of Claims, attached as Exhibit A, together with the Liquidator's recommendations. See 8 V.S.A. § 7082(a) ("the liquidator shall present to the court a report... of the claims against the insurer with recommendations.") Pursuant to 8

V.S.A. § 7082(b), “[t]he court may approve, disapprove, or modify the report on claims [filed] by the liquidator.”

9. Disputed Claims. Two claimants have filed objections regarding the Liquidator’s determination of their claims. See 8 V.S.A. § 7082(a). The Liquidator did not alter his determination in response to these objections. Accordingly, the Liquidator will be reporting these disputed claims to the Court and requesting a hearing. See 8 V.S.A. § 7082(b). The statute governing disputed claims does not specify a procedure and its notice provision is somewhat unwieldy. See *id.* (The Liquidator must mail “notice of the hearing... not less than ten nor more than 30 days before the date of the hearing”). The Liquidator is therefore working with the two claimants to develop a proposed order of notice that would include mutually agreed notice and briefing provisions. The Liquidator will file the report of disputed claims and proposed order of notice promptly upon reaching agreement or, in any event, no later than February 28, 2019.

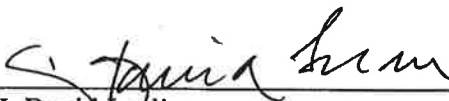
10. Claim Resolution Strategy. The claims determined to date all reflect negotiated compromises or turn on issues other than the substantive merits of an open medical malpractice claim. For example, the Liquidator has issued notices of determination regarding coverage disputes but has not issued notices of determination assigning a value to a controverted tort claim. The Liquidator has pursued this strategy because the alternative is to issue claim determinations that assign an expected value to ongoing lawsuits and trigger the objection, re-determination, and hearing process. See 8 V.S.A. § 7078(a) (if the Liquidator “does not alter his... denial of the claim as the result of the objection... the matter may be heard by the court or by a court-appointed referee...”). Litigation regarding the merits of outstanding tort claims would duplicate proceedings elsewhere in the country (or shift them entirely to Vermont) and require significant time and administrative expense. For this reason, the Liquidator has preferred to await developments in the underlying proceedings and pursue negotiated resolutions.

11. For a number of reasons, this process has not moved as quickly as the Liquidator had hoped. Most importantly, the fact of DSNRRG's liquidation has delayed progress in the underlying malpractice actions because litigants understandably focus on developing their cases against co-defendants with solvent insurers. In addition, some claimants have been hesitant to agree to a less-than-limits settlement when the Liquidator cannot "guarantee" the eventual estate distribution rate. In some instances, the fact that DSNRRG cannot provide its policyholders with a defense has also made it difficult to develop an agreed approach to settlement.

12. The Liquidator continues to believe that the current claim resolution strategy -- awaiting developments in the underlying litigation and negotiating resolutions where possible -- remains the most appropriate option. The Liquidator will continue to evaluate the suitability of that approach, however, as well as alternative strategies for bringing the proceeding to an efficient and effective conclusion.


13. Next Steps. Over the coming months the Liquidator, assisted by Mr. McGrath, will investigate the proofs of claim submitted, analyze the supplemental materials received, and pursue resolution of claims. The Liquidator proposes making his next status report in May of 2019.

Dated this 29th day of January, 2019.



J. David Leslie
Special Deputy Liquidator

Subscribed and sworn before me
this 29th day of January, 2019.



Notary Public
My commission expires:

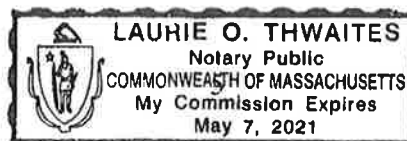


EXHIBIT A

Liquidator's First Report of Claims
January __, 2019

Claims Recommended for Allowance in Priority Class 1

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority Class</u>	<u>Amount Allowed</u>	<u>Prior Payments</u>
108	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	\$ 2,226.96	\$ -
109	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	2,704.59	-
110	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	2,026.90	-
111	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	1,969.90	-
112	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	12,511.47	-
113	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	1,754.97	-
114	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	1	4,655.60	-
Total: Priority Class 1				\$ 27,490.39	\$ 0

Claims Recommended for Allowance in Priority Class 3

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority Class</u>	<u>Amount Allowed</u>	<u>Prior Payments</u>
17	Keri Livingstone, MD	660 NE 95 St., Ste. 1, Miami Shores, FL 33138	3	\$ 7,426.00	\$ 2,599.10
18	Shakeilla Howell, MD	2 Overhill Rd., Suite 260, Scarsdale, NY 10583	3	791.10	395.56
23	Jan Trobisch, MD	7910 Downing Ave., Ste. 10, Bakersfield, CA 93308	3	1,190.05	416.52
24	Thomas D. Nipper, MD	16 Hayestown Rd., #4403, Danbury, CT 06811	3	1,229.32	430.26
25	Giulio Bianchi, MD	17 Castle Drive, Middletown, NJ 07748	3	6,005.00	2,101.75
27	Siva Krish, MD	121 Plantation Ct., East Amherst, NY 14051	3	809.59	403.91
28	Avraham Henoch, MD	2685 Grand Concourse, #1F, Bronx, NY 10468	3	6,116.00	2,140.60
30	Philip Miller Ashman, MD	20 Corley Drive, Rochester, NY 14622	3	7,834.00	2,741.90
31	Rupert Thompson, MD	P.O. Box 330238, Brooklyn, NY 11233-0238	3	12,216.02	6,108.02
33	Philip Avery Alder, MD	17530 Adrian Road, Southfield, MI 48075	3	4,089.00	1,431.15

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority Class</u>	<u>Amount Allowed</u>	<u>Priority Payments</u>
36	Denise Negron, DPM	267 E. 49 th St., Hialeah, FL 33013	3	851.83	298.14
42	Vadim Chudnovsky, MD	46 Soho, Irvine, CA 92612	3	14,690.00	5,141.50
44	Rodolfo A. Nazario, MD	210 East Main St., Middletown, NY 10940	3	3,051.15	1,067.90
45	Albert Ciancimino, MD	78 Cardinal Rd., Manhasset, NY 11030	3	1,282.00	448.70
47	Henry Klotz, MD	17 E. Genessee St., Auburn, NY 13021	3	11,379.00	3,982.65
48	Livonia Outpatient Surgery Center	33400 West Six Mile Rd., Ste. B, Livonia, MI 48152	3	5,261.00	1,841.35
49	Anna Becker, MD	12 1 st Street, Locust Valley, NY 11560	3	2,161.00	756.35
60	Daryl Ruth (o/b/o Dionna Ruth)	5098 Kimi Gray Court, S.E., Washington, DC 20019	3	500,000.00	175,000.00
66	Audrey A. Klenke, MD	7 Mallett Way, Bluffton, SC 29910	3	13,908.00	4,867.80
104	Reginald Weissglas, MD	317 West 87 th Street, New York, NY 10024	3	11,246.61	5,623.30
115	Nagai Rajendran, MD	944 North Broadway, Ste. G06, Yonkers, NY 10701	3	2,066.01	871.58
119	Michelle S. Quayle, MD	P.O. Box 1763, Hartsville, SC 29551	3	16,764.11	8,382.05
128	Artemis Medical Group	10431 Town Center Dr., Ste. 400, Westminster, CO 80021	3	11,167.00	3,908.45
129	David Hauerstock, MD	172 River Road, Potsdam, NY 13676	3	2,253.00	788.55
130	Hyman Stadlen, MD	2 Stowe Road, Ste. #1, Peekskill, NY 10566	3	8,305.04	2,906.76
135	Florida Pediatric Critical Care, PA	17105 Gulf Pine Circle, Wellington, FL 33414	3	71,984.00	25,194.40
139	Robert L. Rioseco, DDS	147 Underhill Ave., West Harrison, NY 10604	3	2,618.07	1309.03
140	Mark A. Sargent, MD	655 Anderson Ct., Satellite Beach, FL 32937	3	6,635.07	2,322.27
Total: Priority Class 3				\$ 733,328.97	\$ 260,880.45

Claims Recommended for Allowance in Priority Classes 4-9

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority Class</u>	<u>Amount Allowed</u>	<u>Prior Payments</u>
99	Madison Int'l Ins. Co.	Robert A. Zack, Director, 3958 DeFoe Sq., Sarasota, FL 34241	9	n/a	n/a
Total: Priority Classes 4-9 \$					-- \$

Claims Denied or Withdrawn

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority Class</u>	<u>Amount Allowed</u>	<u>Prior Payments</u>
22	Silvester Lango, MD	435 East 57 th Street, New York, NY 10022	Denied	n/a	n/a
40	Reshat Hassan, Jr.	4934 West Fallen Leaf Lane, Glendale, AZ 85310	Denied	n/a	n/a
41	Reshat Hassan, Jr.	4934 West Fallen Leaf Lane, Glendale, AZ 85310	Denied	n/a	n/a
97	W. Peter Graper, MD	4843 Vasca Dr., Sarasota, FL 34240	Denied	n/a	n/a
98	White Cedar Enter., Inc.	Robert A. Zack, President, 3958 DeFoe Sq., Sarasota, FL 34241	Denied	n/a	n/a
100	Jay Ellenby, MD	2 Grove Isle Drive, PH4, Miami, FL 33133	Denied	n/a	n/a
125	Leahy & Johnson, PC	120 Wall Street, New York, NY 10005	Denied	n/a	n/a
136	Anne Harrington	229-12 88 th Ave., Queens Village, NY 11427	Denied	n/a	n/a
9	Rita Proetto	Marcus Susen, Esq., 110 E. Broward Blvd., Suite 1630, Fort Lauderdale FL 33301	Withdrawn	n/a	n/a
53	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
54	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
55	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
56	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
57	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
58	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a
59	Harris Beach, PLLC	99 Garnsey Road, Pittsford, NY 14534	Withdrawn	n/a	n/a