

VT SUPERIOR COURT  
STATE OF VERMONT  
WASHINGTON COUNTY, SS

2018 AUG 20 P 2:57

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COMMISSIONER OF THE  
DEPARTMENT OF FINANCIAL  
REGULATION  
PLAINTIFF,  
  
v.  
  
DOCTORS AND SURGEONS  
NATIONAL RISK RETENTION GROUP  
IC, INC.  
RESPONDENT.  
\_\_\_\_\_

FILED

SUPERIOR COURT  
DOCKET NO. 559-916 Wncv

**ANNUAL ACCOUNTING & STATUS REPORT**

I, J. David Leslie, Special Deputy Liquidator, hereby submit this annual accounting and general status report regarding the liquidation of Doctors and Surgeons National Risk Retention Group IC, Inc. (“DSNRRG” or the “Company”).

1. DSNRRG was placed in rehabilitation pursuant to 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.

ANNUAL ACCOUNTING

2. The Liquidator is required to file an annual accounting with the Court including the assets and liabilities of DSNRRG and all funds received or disbursed during the current period. See 8 V.S.A. § 7057(e); Liquidation Order ¶ 4. DSNRRG’s assets, totaling \$3.35 million as of July 31, 2018, are show in Table 1.

Table 1 -- DSNRRG Assets

Cash & Cash Equivalents	\$	389,498
Short-Term Investments		2,849,668
Interest Receivable		8,023
Contingent Commission Receivable		98,581
Total Assets	\$	<u>3,345,770</u>

DSNRRG’s liabilities cannot be similarly quantified because the circumstances necessary for sound actuarial analysis are not present. Indeed, one of the principal reasons for seeking entry of the Liquidation Order had been receipt of a report from the Company’s actuaries advising that their reserve estimates no longer supported reasonable reliance.<sup>1</sup> See Petition for Order of Liquidation, filed July 19, 2017 at ¶¶ 9 and 12.D. The Liquidator is working to resolve proofs of claim filed against the estate – and thus crystalize DSNRRG’s liabilities -- but, as discussed further below, significant work remains to be performed.

A ledger showing all funds received or disbursed by DSNRRG between entry of the Liquidation Order and July 31, 2018, is attached as Exhibit A.

STATUS REPORT

3. 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

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<sup>1</sup> To avoid misleading creditors as to the percentage at which priority class 3 claims may eventually be paid, see 8 V.S.A. §§ 7081 and 7083, the Liquidator has declined to speculate or make representations as to the Company’s ultimate liabilities. The Liquidator has, instead, referred creditors to the Petition for Order of Liquidation (posted on DSNRRG’s website) and noted that the Liquidation Order was sought when the 35% distribution level prevailing in rehabilitation could no longer be supported.

claim before the February 12, 2018 deadline. (Incomplete proofs of claim were returned to their senders with instructions for resubmission.) As of July 31, 2018, the Liquidator had received and acknowledged an additional thirty-one completed proofs of claim for a total of 145 claims submitted against the estate.

4. The Liquidator has continued to accept, acknowledge, and investigate late-filed claims because doing so has not delayed the liquidation process, imposed undue expense, or otherwise threatened 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 liquidation continues.

5. 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 July 31, 2018, the Special Deputy Liquidator had referred sixty-two 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.

6. The Special Deputy Liquidator reviews Mr. McGrath’s reports and takes such further action as may be appropriate. This 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 proves impractical. Mr. McGrath updates his reports and analysis regularly as additional information is received.

7. Notices of Determination. As of July 31, 2018, the Liquidator has issued notices of determination regarding forty-two proofs of claim.<sup>2</sup> All notices of determination include a determination as to priority class pursuant to 8 V.S.A. § 7081. See Plan of Liquidation, ¶ 2(b). For proofs of claim falling in priority classes 1 through 3 (i.e. claims on which available assets will permit some payment), the Liquidator also makes a determination as to the amount/merits of the claim. For proofs of claim falling in priority classes 4 through 10 (i.e. claims on which available assets will not support payment) the Liquidator defers making a determination as to amount/merits if doing so might require significant investigation, time, or expense.

8. Claimants dissatisfied with determination of their claims may file objections with the Liquidator and request reconsideration. See 8 V.S.A. § 7078. If claimants do not file objections within sixty days from the mailing of the notice of determination, they are barred by statute from making further objection. See *id.* As of July 31, 2018, the Liquidator has received one letter inquiring as to a notice of determination issued. To protect the claimant's rights, the Liquidator has classified it as an objection and reached out to the claimant to provide clarification and solicit further explanation/information before re-determining the claim.

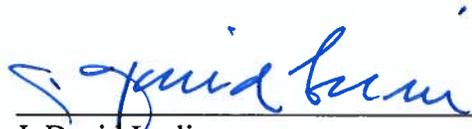
9. Next Steps. The Liquidator, assisted by Mr. McGrath, will continue to investigate and analyze the proofs of claim received. The Liquidator will then either pursue negotiated resolutions or issue notices of determination. The Liquidator proposes making his next status

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<sup>2</sup> In addition, eight proofs of claim have been withdrawn at the respective claimants' request.

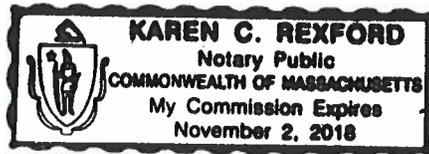
report in January of 2019 so as make a report of assets as of December 31, 2018. The Liquidator also anticipates submitting his first report of claims pursuant to 8 V.S.A. § 7082 at that time.

Dated this 15<sup>th</sup> day of August, 2018,

  
\_\_\_\_\_  
J. David Leslie  
Special Deputy Liquidator

Subscribed and sworn before me  
this 15 th day of August, 2018

  
\_\_\_\_\_  
Notary Public  
My commission expires:



**EXHIBIT A**

All Deposits and Distributions from DSNRRG's Accounts  
between August 10, 2017 and August 10, 2018

<b>Date</b>	<b>Payee/Payor</b>	<b>Description</b>	<b>Amount</b>
9/8/2017	Abbi Smith	Vendor -- Credentialing Requests	\$ 300.00
9/8/2017	Compu-Tecs, LLC	IT/Communication Fees	\$ 1,390.99
9/8/2017	Merlinos & Associates, Inc.	Actuarial Services	\$ 1,428.75
9/8/2017	Rackemann Sawyer & Brewster	Professional Services	\$ 10,347.50
9/8/2017	Western Litigation	Indemnity Settlement (Mirvis Claim)	\$ 7,000.00
10/4/2017	Mark Barwick	Vendor -- Underwriting Support	\$ 1,225.00
10/30/2017	Abbi Smith	Vendor -- Credentialing Requests	\$ 400.00
10/30/2017	Abbi Smith	Vendor -- Credentialing Requests	\$ 487.50
10/30/2017	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
10/30/2017	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
10/30/2017	Rackemann Sawyer & Brewster	Professional Services	\$ 4,974.19
11/6/2017	Abbi Smith	Vendor -- Credentialing Requests	\$ 287.50
11/6/2017	Western Litigation	TPA Services	\$ 75,396.47
11/29/2017	Agee Fisher Barrett	Tax Preparation Services (2016)	\$ 8,052.00
11/29/2017	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
11/29/2017	Western Litigation	TPA Services	\$ 66,243.22
11/29/2017	Western Litigation	TPA Services	\$ 11,704.41
<b>2017 Total</b>			<b>\$ 192,192.53</b>

1/3/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 350.00
1/3/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
1/3/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 5,675.00
1/3/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 6,060.83
1/3/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 4,602.78
1/3/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 6,723.86
1/3/2018	Western Litigation	TPA Services	\$ 49,853.84
1/17/2018	CT Corporation	Services of Process Fees	\$ 66.00
1/17/2018	CT Corporation	VT Registered Agent Service	\$ 439.00
1/17/2018	Western Litigation	TPA Services	\$ 20,000.00
1/24/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 937.50
1/24/2018	Western Litigation	TPA Services	\$ 52,462.86
1/25/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 50.00
1/31/2018	CT Corporation	Services of Process Fees	\$ 380.00
1/31/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 3,040.15
1/31/2018	Western Litigation	TPA Services	\$ 6,217.06
1/31/2018	Western Litigation	Administrative Services	\$ 1,000.00

<b>Date</b>	<b>Payee/Payor</b>	<b>Description</b>	<b>Amount</b>
1/31/2018	Western Litigation	Maine/Nevada Fees	\$ 489.25
2/6/2018	CT Corporation	Maine/Nevada State fees	\$ 489.25
2/6/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 1,237.50
3/20/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 200.00
3/20/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 225.00
3/20/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
3/20/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
3/20/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 3,225.00
3/20/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 2,669.33
3/20/2018	Western Litigation	ALAE -- 1.1.18 to 2.15.18	\$ 4,278.21
3/20/2018	Western Litigation	Administrative Services	\$ 1,000.00
4/20/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 200.00
4/20/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 4,775.00
4/20/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 8,418.51
4/20/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 11,781.61
4/20/2018	Western Litigation	ALAE -- 2.15.18 to 3.15.18	\$ 5,094.95
4/20/2018	Western Litigation	Administrative Services	\$ 1,000.00
6/13/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 9,737.50
6/15/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 375.00
6/15/2018	Alterna, LLC	Management Fees -- 2018	\$ 12,500.00
6/15/2018	Alterna, LLC	Management Fees -- 2017	\$ 12,500.00
6/15/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
6/15/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
6/15/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 3,843.98
6/15/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 2,258.25
6/15/2018	Western Litigation	Administrative Services	\$ 1,000.00
6/15/2018	Western Litigation	Administrative Services	\$ 1,000.00
7/23/2018	Abbi Smith	Vendor -- Credentialing Requests	\$ 150.00
7/23/2018	Compu-Tecs, LLC	IT/Communication Fees	\$ 985.00
7/23/18	McGrath Assoc. Claims & Risk Serv.	Claim Adjudicator Services	\$ 3,750.00
7/23/2018	Rackemann Sawyer & Brewster	Professional Services	\$ 5,122.10
7/23/2018	Western Litigation	Administrative Services	\$ 1,000.00
<b>Year to Date (8/10/18)</b>			<b>\$ 262,089.32</b>