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16 **DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

18 STATE OF NEVADA, EX REL. COMMISSIONER
OF INSURANCE, IN HER OFFICIAL CAPACITY
19 AS STATUTORY RECEIVER FOR
20 DELINQUENT DOMESTIC INSURER,

21 Plaintiff,

22 vs.

23 SPIRIT COMMERCIAL AUTO RISK
RETENTION GROUP, INC., a Nevada Domiciled
24 Association Captive Insurance Company,

25 Defendant.
26
27
28

Case No. A-19-787325-B
Dept. No. 27

[HEARING REQUESTED]

**MOTION FOR FINAL ORDER
PLACING SPIRIT COMMERCIAL
AUTO RISK RETENTION GROUP,
INC. INTO LIQUIDATION
and
MOTION REQUESTING THE SETTING
OF A CLAIMS FILING DEADLINE,
AND GRANTING RELATED RELIEF**

1 COMES NOW, Barbara D. Richardson, Commissioner of Insurance (“Commissioner”) and
2 Receiver (“Receiver”), and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”), by and
3 through their counsel of record, Greenberg Traurig, LLP, pursuant to Nevada Revised Statute (“NRS”)
4 696B.220, and respectfully moves this Court for a Final Order Placing Spirit Commercial Auto Risk
5 Retention Group, Inc. into Liquidation, and for an Order Setting a Claims Filing Deadline (“Consolidated
6 Motions”) and granting related relief as set forth in this motion.

7 These Consolidated Motions are made and based on these papers and any oral argument at a
8 hearing on this matter.¹

9 DATED this 16th day of September, 2019.

10 **GREENBERG TRAUIG, LLP**

11
12 */s/ Kara Hendricks*

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22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **Background**

24 Spirit Commercial Auto Risk Retention Group (“Spirit” or the “Company”) is an association
25 captive insurance company organized under the insurance laws of Nevada and the Liability Risk

26
27 ¹The Receiver’s Motion for Instructions, and the Court’s subsequent Order Regarding Motion for Instructions
28 Including Notice Requirements, contemplate the filing of two separate motions. The Receiver is now filing this
single consolidated motion for a Final Order Placing Spirit Commercial Auto Risk Retention Group into
Liquidation, and for an Order Setting a Claims Filing Deadline, and Granting Related Relief.

1 Retention Act of 1986. Spirit received its Certificate of Authority on February 24, 2012, and operates
2 under the authority of NRS Chapter 694C. Spirit transacted commercial auto liability insurance business.
3 Within that line, Spirit specialized in serving commercial truck owners. Pursuant to NRS 679A.160,
4 Spirit is subject to Nevada laws in Chapters 694C and 695E that pertain to captive insurers (as “captive
5 insurer” is defined in NRS 694C.060) and risk retention groups (as “risk retention group” is defined in
6 NRS 695E.110) that have a Certificate of Authority from the Nevada Division of Insurance (“Division”).
7 Spirit is considered an association captive insurer (as “association captive insurer” is defined in NRS
8 694C.050). As a risk retention group (“RRG”), Spirit is subject to the federal Liability Risk Retention
9 Act of 1986. RRGs domiciled in Nevada do not participate in the Nevada Guaranty Association.

10 The Commissioner initially filed her first petition to put the Company into receivership on January
11 11, 2019. On February 27, 2019, this Court issued its Permanent Injunction and Order Appointing
12 Commissioner as Permanent Receiver of Spirit Commercial Auto Risk Retention Group, Inc. (the
13 “Permanent Receivership Order”). The Commissioner, in her capacity as Receiver for Spirit, appointed
14 the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy Receiver (“SDR”) of Spirit effective
15 February 27, 2019, in accordance with Chapter 696B of the NRS. The term “Receiver” herein refers
16 collectively to the Receiver and the SDR.

17 **Grounds for Motion**

18 This Court has original jurisdiction of the subject matter of these Consolidated Motions under
19 NRS 696B.190. NRS 696B.220 authorizes the Receiver to apply to this Court for an order authorizing
20 her to liquidate the business of a domestic insurer, whether or not there has been a prior rehabilitation
21 order, so long as certain grounds exist justifying the entry of a liquidation order.

22 NRS 696B.330 directs the Receiver to determine whether to approve or deny, in whole or in part,
23 every claim against the insurer in receivership. NRS 696B.330 authorizes the Receiver to establish a
24 process by which claimants against the assets of Spirit may set forth in reasonable detail the amount of
25 their claims, the facts upon which those claims are based, and any priorities asserted. NRS 696B.460
26 authorizes the Court to approve the manner of notice for this claim filing process as well as to set the
27 deadline for the filing of claims. NRS 696.420 directs the Receiver to pay claims in the order of priority
28 as provided therein.

1 The Permanent Receivership Order authorizes the Receiver to establish a Receivership Appeal
2 Procedure (“RAP”) to facilitate the orderly disposition or resolution of claims or controversies involving
3 the receivership estate.

4 **The Request for a Final Order Directing Liquidation**

5 The Permanent Receivership Order authorized the Receiver to conserve, rehabilitate, or liquidate
6 Spirit. (*See*, Permanent Receivership Order, paras. 3 and 5.) The Receiver now recommends that Spirit
7 be liquidated and requests that the Court enter a formal order of liquidation for Spirit. NRS 696B.220
8 establishes the grounds for the liquidation of a domestic insurer. NRS 696B.220(2) provides that an
9 insurer’s insolvency, or commencement of voluntary liquidation or dissolution, is grounds for an order
10 of liquidation. This Court, in its Permanent Receivership Order, has already adjudged Spirit insolvent,
11 ruling that:

12 [Spirit] is in a hazardous financial condition in that, based on its present or
13 reasonably anticipated financial condition, it cannot meet its obligations to
14 policyholders with respect to known claims and reasonably anticipated
15 claims, or to pay other obligations in the normal course of business and,
and 696B.210(1).

16 Permanent Receivership Order, para. 2. NRS 696B.110 defines “insolvency,” among other definitions,
17 as existing when the insurer fails to meet its obligations as they mature.

18 Spirit’s hazardous financial condition has forced the Receiver to defer payment of Spirit
19 obligations as they have matured—and there has been no indication that any improvement in the
20 Company’s financial condition will be forthcoming. On the contrary, the Receiver’s analysis thus far of
21 Spirit’s books and records leads to serious concerns in several areas:

- 22 1. Spirit is owed over \$30M by affiliated entities, and this money cannot currently be fully
23 accounted for, nor is it certain that it can be recovered²;
- 24 2. Spirit has significant liabilities (the full scope of which is still developing), and insufficient
25 assets to pay for these liabilities;

26
27
28 ² The Receiver has reported on this matter in its quarterly status reports to the Court, and will continue to do so as
more information is uncovered.

- 1 3. There is no guaranty fund coverage and no known significant reinsurance coverage for
2 Spirit's policy claims;
- 3 4. Spirit does not have any documentation for many or most of its material accounting
4 transactions and Spirit's vendors and affiliated entities have not been able or willing to
5 provide this information after numerous requests by the Receiver;
- 6 5. Spirit made a number of misrepresentations and omissions to the Division, in addition to
7 those known at the time of the Commissioner's initial petition for receivership, which the
8 Receiver is still evaluating;
- 9 6. Certain persons and/or entities affiliated with Spirit have not been forthcoming with key
10 information requested by the Receiver, and in some cases, it appears have presented false
11 information to the Receiver.

12 *See*, Declaration of Mark Bennett, attached hereto.

13 Given the basis for the initial receivership, and the facts that have developed thus far in the
14 receivership, the Receiver believes liquidation should proceed without delay. NRS 696B.220(5) provides
15 that, upon application of the Receiver, the Court may order an insurer liquidated if "efforts to rehabilitate
16 the insurer and remove the causes or adverse effects thereof for which rehabilitation was instituted have
17 failed despite all reasonable efforts by the Commissioner, or cannot be continued without material
18 increase of risk of loss to the insurer's creditors or policyholders." The Receiver believes that liquidation
19 is warranted under NRS 696B.220(5) because: (a) continued efforts to rehabilitate Spirit are unlikely to
20 remove the underlying causes of Spirit's hazardous financial condition, which is exacerbated by the
21 failure of Spirit's affiliated entities to remit or even to account for large sums of money owed to Spirit;
22 (b) Spirit voluntarily ceased writing new and renewal business as of June 30, 2018; (c) all of Spirit's
23 active policies were canceled by order of this Court on April 15, 2019; (c) the Division has suspended
24 Spirit's license to transact insurance business; (d) Spirit's former leadership have made material
25 misstatements to the Division (as detailed in pleadings that preceded the Permanent Receivership Order,
26 and as is being further evaluated and uncovered by the Receiver in receivership); (e) Spirit does not have
27 the infrastructure and resources to enable rehabilitation and resumption of its pre-receivership business
28 operations; and (f) Spirit does not have, and there is no reason to believe that in the future it would or

1 could have, sufficient capital and surplus to be rehabilitated, resume its pre-receivership business
2 operations, and meet its obligations as they mature.

3 There is no reasonable probability that Spirit’s hazardous financial condition will improve
4 sufficiently to enable Spirit to resume operations, much less to meet all obligations as they mature.³ Thus,
5 pursuant to this plan of liquidation, all operations of Spirit should cease, and its affairs should be wound
6 up as provided herein and as further provided in the Receiver’s Application filed contemporaneously
7 with this Motion. The Permanent Receivership Order authorized the Receiver to conserve, rehabilitate,
8 or liquidate Spirit. See, Permanent Receivership Order, paras. 3 and 5. For the reasons above, the
9 Receiver is now respectfully requesting that Spirit be formally placed into liquidation by a final order of
10 this Court.

11 **The Proposed Claim Procedures**

12 As set forth in detail below, the Receiver is requesting the setting of a claims filing deadline,
13 approval of the process for submitting and processing of claims, and approval of the related appeals process.
14 The Receiver hereby requests that the Court approve the form of the exhibits attached to this motion as
15 Exhibits 1-4. In keeping with the Court’s Order Regarding Motion for Instructions Including Notice
16 Requirements, a mailing is to be sent by the Receiver to all interested parties of Spirit and this mailing will
17 include Exhibits 1-3, along with copies of any Final Orders issued on this Consolidated Motion.

18 **I. CLAIMS FILING DEADLINE**

19 NRS 696B.460 states that after the entry of an order of liquidation, the Commissioner shall notify
20 all persons who may have claims against the insurer in receivership to file such claims with the
21 Commissioner within the time specified. The statute further provides that the time specified in the notice
22 shall be fixed by this Court and shall be not less than six (6) months after the entry of the order. The
23 Receiver requests that the Court set a claims filing deadline of October 31, 2020 (the “Claims Filing
24 Deadline”). Pursuant to the Permanent Receivership Order, all Spirit’s in-force insurance policies were
25 canceled effective on the earlier of April 15, 2019, or the date when the insured ceased making premium
26 payments to Spirit. A deadline of October 31, 2020, will allow all parties in interest sufficient time and
27

28 ³ See Exhibit A, Declaration of Mark Bennett, attached hereto.

1 opportunity to identify and file claims. If a person fails to file a claim with the Receiver by the Claims
2 Filing Deadline, and in the method provided by this Court’s Order, NRS 696B.460(2) provides that the
3 claim “shall be forever barred.” In keeping with NRS 696B.460(2), the Receiver requests this Court to
4 order that all claims against Spirit not postmarked on or before October 31, 2020, and sent to the address
5 specified by the Receiver, be deemed not to have been timely and be barred, not subject to processing by
6 the Receiver, and ineligible to share in any distribution of the assets of the estate.

7 NRS 696B.400 states that the rights and liabilities of the insurer and of its creditors,
8 policyholders, stockholders, members, subscribers, and all other interested persons shall be fixed as of
9 the date of the order of liquidation, unless the Court directs otherwise, subject to the provisions of
10 Chapter 696B with respect to the rights of claimants holding contingent claims. The Receiver requests
11 that this Court order that: (a) the rights of parties regarding Spirit are fixed as of the date of the order
12 of liquidation, except for those claimants with contingent or unliquidated claims to the extent that their
13 rights are protected by NRS 696B.400 and 696B.450, and (b) Spirit’s claims against others are not
14 fixed as of the date of the order of liquidation.

15 With respect to contingent claims, in general, no contingent and unliquidated claim should share
16 in a distribution of the assets of an insolvent insurer, per NRS 696B.450. However, NRS 696B.450
17 provides several exceptions:

- 18 1. If the claim becomes absolute against the insurer on or before the claims filing deadline.
19 NRS 696B.450(1)(a).
- 20 2. If there is a surplus and the liquidation is thereafter conducted on the basis that the insurer
21 is not insolvent. NRS 696B.450(1)(b).
- 22 3. If a person has a cause of action against an insured of the insurer, and can meet the
23 requirements of NRS 696B.450(2).

24 Accordingly, the Receiver requests that this Court order that claims which have not been
25 liquidated in amount and made non-contingent on or before the Claims Filing Deadline may not share

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1 in the assets of the receivership estate unless the claimant meets one of the exceptions found in NRS
2 696B.450, which will be in the Receiver’s sole discretion to determine.⁴

3 **II. SUBMISSION AND PROCESSING OF CLAIMS**

4 Per NRSB.330(1), all claims filed against Spirit must be filed in the manner and form established
5 by the Receiver, be verified by the affidavit of the claimant (or someone authorized to act on the
6 claimant’s behalf) and be supported by documentation. The Receiver requests the Court’s approval to
7 require that all claims against the estate be submitted on the Proof of Claim (“POC”) form attached as
8 Exhibit 2, and according to the instructions attached as Exhibit 3.

9 The Receiver seeks authority for the Receiver to process POCs and to make distributions on
10 approved claims after all POCs have been finally resolved, according to the requirements of: (1) NRS
11 696B.420, which requires the payment of each class of approved creditor claims in full, or to retain adequate
12 funds for such payment, before making even partial payments on any inferior class of creditor claims; (2)
13 NRS 696B.450, which precludes payment on any claim that is not rendered absolute (i.e., both non-
14 contingent and liquidated in amount) on or before the proposed Claims Filing Deadline; (3) NRS 696B.330
15 which provides, *inter alia*, that every claim against an insurer in receivership must be filed in a manner and
16 form that sets forth in reasonable detail the amount of the claim, the facts underlying the claim, and any
17 payment priority asserted; and (3) such other requirements as this Court may provide in its Final Order.

18 **III. APPEALS**

19 In accordance with Nevada law, the Receiver proposes to adopt the RAP set forth in Exhibit 3
20 and the Appeal Form set forth in Exhibit 4 in order to facilitate the orderly disposition or resolution of
21 claims or controversies involving the receivership estate. Decisions of the Receiver to which the RAP
22 will apply include decisions that concern any type of claim against the receivership estate (both policy
23 claims as well as non-insurance claims), and will also include decisions that concern non-claim matters,
24 so long as the decision affects, or may affect, a financial interest, contract right, or legal entitlement of
25 the receivership or the person asserting the appeal.

26 ///

27 _____
28 ⁴ Such determination by the SDR would be subject to the RAP.

1 The Receiver will mail, by first-class mail, postage prepaid, to each claimant that filed a POC,
2 written notice of the determination regarding the claim. NRS 696B.330(5). Pursuant to the RAP,
3 claimants have sixty (60) days after the mailing of the written notice to file with the Receiver an objection
4 to the determination of the Receiver on the claim (*i.e.*, an appeal). NRS 696B.330(7). The Receiver will
5 report to the Court any unresolved objections, so that a hearing may be set for the resolution of such
6 claims. NRS 696B.330(8). The Receiver will notify claimants of the time and place of the hearing. Id.

7 **The Need for a *Final* Order on these Consolidated Motions**

8 A final, appealable order by the Court is needed to enforce any directions of the Court issuing
9 from these Consolidated Motions. An interlocutory order would be subject to appeal, potentially years
10 after any approved claims filing deadline passes. This would make a swift resolution of the claims against
11 the estate impossible, and the distribution of any estate assets impracticable until such time as a final
12 appealable order were to eventually be entered. Accordingly, the Receiver respectfully requests that the
13 Court designate the orders requested as Final Orders pursuant to NRS 696B.190(5).

14 **Requested Relief**

15 For the reasons discussed above, the Receiver respectfully requests that the Court:

- 16 1. Enter a Final Liquidation Order that
 - 17 a. formally places Spirit into liquidation and authorizes the Receiver to liquidate the
18 business of Spirit and wind up its ceased operations; and
 - 19 b. designates the order as a Final Order pursuant to NRS 696B.190(5);
- 20 2. Enter a Final Claim Order that:
 - 21 a. approves the claims notice procedures proposed herein;
 - 22 b. Approves the form of notice attached as Exhibit 1, and finds that it complies with
23 applicable Nevada law;
 - 24 c. Approves the POC form attached as Exhibit 2, and finds that it complies with
25 applicable Nevada law;
 - 26 d. Approves the claims and appeals processing procedures described in this
27 Consolidated Motion and as set forth in the enclosed Exhibits 2-4, and finds that
28 forms substantially similar to the Exhibits 2-4, comply with applicable Nevada law

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 16th day of
3 September, 2019, I caused a true and correct copy of the foregoing **MOTION FOR FINAL ORDER**
4 **PLACING SPIRIT COMMERCIAL AUTO RISK RETENTION GROUP, INC. INTO**
5 **LIQUIDATION and MOTION REQUESTING THE SETTING OF A CLAIMS FILING**
6 **DEADLINE, AND GRANTING RELATED RELIEF** to be filed with the Clerk of Court using the
7 Odyssey e-FileNV Electronic Service system and served on all parties with an email address on record,
8 pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

9 The date and time of the electronic proof of service is in place of the date and place of deposit in
10 the mail.

11
12 /s/ Andrea Flintz
13 Employee of Greenberg Traurig, LLP
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1 **DECL**
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24 *Attorneys for the Plaintiff*

25 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
26 **CLARK COUNTY, NEVADA**

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

Plaintiff,

vs.

SPIRIT COMMERCIAL AUTO RISK RETENTION
GROUP, INC., a Nevada Domiciled Association
Captive Insurance Company,

Defendant.

Case No. A-19-787325-B

Dept. No. 27

**DECLARATION OF MARK F.
BENNETT IN SUPPORT OF**

**MOTION FOR FINAL ORDER
PLACING SPIRIT COMMERCIAL
AUTO RISK RETENTION GROUP,
INC. INTO LIQUIDATION
and
MOTION REQUESTING THE
SETTING OF A CLAIMS FILING
DEADLINE, AND GRANTING
RELATED RELIEF**

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1. My name is Mark F. Bennett. I am over the age of 18.

2. I have personal knowledge of the facts stated in this declaration, to which I could and would testify if called as a witness.

3. I am an attorney with the law firm of Cantilo & Bennett, L.L.P., which was appointed Special Deputy Receiver of Spirit Risk Retention Group, Inc. ("Spirit") in the above-captioned matter.

4. This declaration is made in support of Plaintiff's request for a Final Order Placing Spirit into Liquidation, and for an Order Setting a Claims Filing Deadline ("Consolidated Motions") and Granting Related Relief as set forth in the Consolidated Motions.

5. I am a duly authorized representative of the Special Deputy Receiver ("SDR"). In that capacity: (a) I have been continuously involved in the receivership and liquidation since the day Spirit was placed in receivership due to insolvency; (b) I have knowledge, from the business records of Spirit, of which the Special Deputy Receiver is the custodian, of Spirit's regularly conducted pre-receivership business activities; and (c) I am a qualified witness as to the authenticity and foundation of the pre-receivership and receivership documents of Spirit.

6. I have read the foregoing Consolidated Motions and the facts stated therein are true and correct based on my personal knowledge and my review of estate records.

7. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 16, 2019

By: 
Mark F. Bennett

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT 1: MAILING, WEB SITE, AND PUBLICATION NOTICE

**IMPORTANT NOTICE OF LIQUIDATION AND CLAIMS FILING DEADLINE
TO ALL PERSONS INTERESTED IN THE AFFAIRS OF
SPIRIT COMMERCIAL AUTO RISK RETENTION GROUP, INC.**

This notice provides important information regarding the liquidation of Spirit Commercial Auto Risk Retention Group, Inc. (“**Spirit**”). On February 27, 2019, Spirit was placed in receivership by order (“**Permanent Receivership Order**”) of the Eighth Judicial District Court of the State of Nevada (**the “Receivership Court**”). Barbara D. Richardson, the Nevada Commissioner of Insurance, is the Receiver of Spirit and CANTILO & BENNETT, L.L.P., is the appointed Special Deputy Receiver (“**SDR**”) of Spirit. On _____, the Receivership Court issued its Final Order Placing Spirit into Liquidation (the “Liquidation Order”) and its Order Setting a Claims Filing Deadline and Granting Related Relief (“the Claims Order”). The orders are enclosed and should be read in their entirety rather than just reading this notice.

The Claims Order approves a proof of claim (“POC”) process for filing claims against Spirit and establishes **October 31, 2020**, as the **Claims Filing Deadline** for the submission of such claims. All claims against Spirit will be handled as claims against the Spirit receivership estate, and all proceedings are governed by applicable Nevada law. All claims must be submitted on the approved POC Form (enclosed herein). Late-filed POCs will be barred from sharing in any distribution of Spirit’s assets. In order for a POC to be considered timely filed, it must be postmarked or delivered to the SDR on or before **October 31, 2020**. In addition to being timely filed, claims must also be non-contingent and liquidated in amount by the Claims Filing Deadline to share in any distribution of Spirit’s assets. Claims that remain contingent and unliquidated after **October 31, 2020**, will also be barred.¹

Please read, and follow the instructions within, the enclosed Receivership Claims and Appeals Procedure. Failure to complete the POC Form according to the instructions may cause your claim to be delayed or disallowed. Please also note that although your claim may be approved in whole or in part, the receivership estate may only be able to pay a portion of your approved claim depending on the remaining assets of the estate.

The Liquidation Order directs the Receiver to liquidate and wind down the affairs of Spirit. Future notices about receivership matters, which could impact your rights, will be made through the Spirit web site (www.spiritinsure.com). This notice and its enclosures can be downloaded from the Spirit web site. You may wish to check the site on an ongoing basis to stay informed. You may also request copies of the enclosed documents by calling (512) 478-6000, or by writing to CANTILO AND BENNETT, L.L.P., Attention: Spirit SDR, P.O. Box 184, Austin, Texas 78767. You are responsible for keeping the SDR apprised of any change in your address, to assure your receipt of any mailed notices or correspondence.

Una versión en español de este aviso será publicada en www.spiritinsure.com (“a Spanish version of this notice will be posted at www.spiritinsure.com”).

¹ Except to the extent that such claims may be protected by NRS 696B.400 and 696B.450, and which it is in the SDR’s sole discretion to determine.

EXHIBIT “2”

EXHIBIT “2”

Explanation of Claim:

Attach additional pages if necessary. If this is a policy claim, please include policy and claim number(s) and state whether or not the claim has previously been reported to Spirit's claim administrator.

State of _____ §

§

County of _____ §

§

Unless noted herein, I alone am entitled to file this claim, no others have an interest in this claim, no payments have been made on the claim, no third party is liable on this debt, the sum claimed is justly owing, and there is no set-off. I declare, under penalty of perjury, that all of the statements made in this Proof of Claim Form and all documents attached to this form are true, complete, and correct.

Signature of Claimant or Authorized Agent

Title

Sworn to and subscribed before me this _____ day of _____
20__.

Notary Public Signature

NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM.

EXHIBIT “3”

EXHIBIT “3”



Spirit Commercial Auto Risk Retention Group, Inc., in Receivership

Barbara D. Richardson, Receiver
Cantilo & Bennett, L.L.P., Special Deputy Receiver

RECEIVERSHIP CLAIMS AND APPEAL PROCEDURE & INSTRUCTIONS

Proofs of Claim (“POC”)

1. Claims must be submitted to the Special Deputy Receiver (“SDR”) on or before the Claims Filing Deadline of **October 31, 2020**, or else will be forever barred from sharing in the assets of the receivership estate of Spirit Commercial Auto Risk Retention Group, Inc. (“Spirit”). In order for a POC to be considered timely filed, it must be postmarked or delivered to the SDR on or before the October 31, 2020, Claims Filing Deadline. Failure to complete the POC Form according to the instructions may cause your claim to be delayed or disallowed.
2. If you have a policy claim and it has previously been reported to Spirit or a third-party claims administrator (“TPA”) for Spirit, please note this on the POC Form and provide any reference numbers previously assigned to your claim.
3. All claims submitted to the SDR must be accompanied by a signed and notarized POC Form (available for download at www.spiritinsure.com). All claims shall set forth in reasonable detail the amount of the claim, or the basis upon which that amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. Claims must be verified by the affidavit of the claimant (or someone authorized to act on behalf of the claimant and having knowledge of the facts) and be supported by the applicable written documentation or proof. Blank or substantially incomplete POC Forms will not be processed, and will be rejected by the SDR. Claimants may request a status update on their claim by contacting the SDR at any time, but should not make duplicate claim submissions as doing so wastes the assets of the estate (and the SDR reserves the right to apply an offset of cost to recoup the processing cost for duplicate submissions).
4. The SDR will review each claim received and assign it a priority classification as provided by NRS 696B.420. The SDR is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the SDR shall notify the court and may make a recommendation to the court for the processing of any such claims.
5. After the last date for filing a claim (October 31, 2020), as directed by the court, and subject to the above provisions herein, the SDR shall determine whether to approve or deny, in whole or in part, each claim filed with the SDR pursuant to this procedure and shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the SDR, written notice of the determination regarding the claim. The notice of claim determination will inform the claimant of when the claimant’s appeal must be sent to the SDR. The procedure for appeal is described further below.
6. The SDR shall submit to the court a report of each claim approved in whole or in part.

Receivership Appeal Procedure (“RAP”)

*This appeal procedure applies to those who have filed a POC against the Spirit estate. Others may utilize this RAP to appeal decisions of the Receiver concerning non-claim matters if the decision may affect a financial interest, contract right, or legal entitlement of the person making the appeal. Appeals of any kind must be **received by the SDR within sixty days of the determination that is being appealed, or the determination will be final.** Any questions about appeal deadlines should be directed to the SDR using one of the methods of contact listed below. Please refer to the following paragraphs to file an appeal.*

7. Not more than sixty (60) days after the later of the mailing of the written notice of claim determination, or of any report to the court concerning a claim determination, a person may file with the SDR an objection to the determination of the SDR on the claim that is the subject of the mailed “written notice” or the “report” to the court. To be timely, the appeal must be received by the SDR on or before the appeal due date. This applies to any written determination of the SDR.
8. Failure to file a timely appeal of a determination with the SDR will waive any right of the claimant to pursue his, her, or its claim against Spirit, and the SDR’s determination will become final and non-appealable.
9. Appeals should be submitted using the appeal form found at www.spiritinsure.com. An appeal should, at a minimum, include a brief explanation, clearly reference the determination or matter that is being appealed (including any applicable claim reference numbers), and state the claimant’s desired outcome. Appeals must be in writing and should be sent by mail to the SDR at the address below. A method that allows for tracking (U.S. Certified Mail, Fedex, UPS, etc.) is recommended but not required.
10. If an appeal is timely filed following the requirements of this RAP, the SDR will work to resolve the appeal based upon information submitted. The SDR will submit to the court a report on the determination of the SDR on each claim to which an unresolved appeal has been filed. The court shall fix a time for a hearing on such claims and shall direct the SDR to give notice of the hearing. The notice provided by the SDR must:
 - a. Be sent to the claimant by first-class U.S. mail, postage prepaid, not more than thirty (30) days and not less than ten (10) days before the hearing, on any claim to which an objection has been filed; and
 - b. Specify the time and place of the hearing.
11. A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.
 - a. An order by the trial court may be appealable to the Supreme Court of Nevada in accordance with Nevada Supreme Court Rules.
 - b. An order by the trial court that is not timely appealed to the Supreme Court of Nevada is deemed “final.”

Submit POC Forms, appeals, and other Spirit-related correspondence by mailing to the SDR:

CANTILO & BENNETT, L.L.P.

Attention: Spirit SDR

11401 Century Oaks Terrace, Suite 300

Austin, Texas 78758

Direct all questions, comments, or concerns regarding claims or appeals to:

1-800-#### (To be determined)

EXHIBIT “4”

EXHIBIT “4”

Explanation of Appeal: You must include a brief explanation, clearly reference the determination or matter that is being appealed (including any applicable claim reference numbers and the date(s) that the determination(s) were made) and state your desired outcome of this appeal.

State of _____ §

§

County of _____ §

§

Unless noted herein, I alone am entitled to file this appeal, no others have an interest in this claim, no payments have been made on the claim, no third party is liable on this debt, the sum claimed is justly owing, and there is no set-off. I declare, under penalty of perjury, that all of the statements made in this Appeal and all documents submitted in support of this Appeal are true, complete, and correct.

Signature of Claimant or Authorized Agent

Title

Sworn to and subscribed before me this _____ day of _____
20____.

Notary Public Signature

NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM.

Please check with the SDR before sending any large mailings to prevent duplicate document submissions and conserve the assets of the estate. Do not re-submit documents that were previously submitted with a Proof of Claim.