



1 **SR**
2 MARK E. FERRARIO, Bar No. 1625
3 KARA B. HENDRICKS, Bar No. 7743
4 TAMI D. COWDEN, Bar No. 8994
5 GREENBERG TRAURIG, LLP
6 10845 Griffith Peak Drive, Suite 600
7 Las Vegas, NV 89135
8 Telephone: (702) 792-3773
9 Facsimile: (702) 792-9002
10 Email: ferrariom@gtlaw.com
11 hendricksk@gtlaw.com
12 cowdent@gtlaw.com

13 *Attorneys for the Plaintiff*

14 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
15 **CLARK COUNTY, NEVADA**

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

21 **Plaintiff,**

22 vs.

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

27 **Defendant.**

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

EIGHTH STATUS REPORT

29 COMES NOW, Commissioner of Insurance and Receiver, Barbara D. Richardson, and CANTILO
30 & BENNETT, L.L.P., Special Deputy Receiver (“SDR”), and files this Eighth Status Report in the above-
31 captioned receivership. In accordance with the orders of this Court and the Nevada Revised Statutes
32 (“NRS”) Chapter 696B, the Receiver makes this “true report[s] in summary form of the insurer’s affairs
33 under the receivership and of progress being made in accomplishing the objectives of the receivership.”
34 NRS 696B.290(7).

I.

INTRODUCTION

Spirit Commercial Auto Risk Retention Group, Inc. (“Spirit” or the “Company”) is an association captive insurance company organized under the insurance laws of Nevada and the Liability Risk Retention Act of 1986. Spirit received its Certificate of Authority on February 24, 2012, and operates under the authority of NRS Chapter 694C. Spirit transacted commercial auto liability insurance business. Within that line, Spirit specialized in serving commercial truck owners.

Pursuant to NRS 679A.160, Spirit is subject to Nevada laws in Chapters 694C and 695E that pertain to captive insurers (as “captive insurer” is defined in NRS 694C.060) and risk retention groups (as “risk retention group” is defined in NRS 695E.110) that have a Certificate of Authority from the Division. Spirit is considered an association captive insurer (as “association captive insurer” is defined in NRS 694C.050). As a risk retention group (“RRG”), Spirit is subject to the Federal Liability Risk Retention Act of 1986. RRGs domiciled in Nevada do not participate in the Nevada Guaranty Association. Pursuant to NRS 695E.140(1)(a), Spirit is also subject to all laws that pertain to traditional liability insurers (with exceptions given in Bulletin 14-008).

As discussed in the Receiver’s First Status Report, Spirit is part of an Insurance Holding Company System and in large part it only did business with other members of that system. CTC Transportation Insurance Services of Missouri, LLC (“CTC”), with offices in Missouri, New Jersey, and California, served as the program administrator and managing general agent for Spirit. Criterion Claims Solutions of Omaha, Inc. (“Criterion”) was the third-party claims administrator (“TPA”) for Spirit. Lexicon Insurance Management LLC was the captive manager for the company (after Risk Services initially served in that role through circa July 2018). Chelsea Financial Group, Inc. provided premium financing services for the majority of Spirit’s policies. The company 10-4 Risk Management provided risk management and loss run services. The owner or ultimate controlling person for each of these entities is or was Thomas Mulligan.¹ All of these companies were taking a portion of the premium dollars from Spirit-issued policies.

¹ See Schedule Y: Part 1A, to the Company’s 2018 Annual Statement, the “Detail of Insurance Holding Company System” (the Receiver’s First Status Report, Ex. B).

1 The Commissioner initially filed her first petition to put the Company into receivership on
2 January 11, 2019, and her efforts to protect the policyholders and other creditors of the estate were
3 contested vigorously by the Company. On February 27, 2019, this Court entered its Permanent
4 Receivership Order. Barbara D. Richardson, Commissioner of Insurance (“Commissioner”), in her
5 capacity as Receiver for Spirit appointed the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy
6 Receiver of the Companies. The “Receiver” and “Special Deputy Receiver” are referred to collectively
7 herein as the “Receiver.”

8 In brief, the Permanent Receivership Order established the following key points for the Spirit
9 receivership:

- 10 1) that the Company’s in-force insurance policies are to be canceled effective on the earlier
11 of April 15, 2019, or the date when the insured ceased making premium payments to
12 Spirit;
- 13 2) that the Receiver may impose a full suspension on all disbursements owed by Spirit,
14 including insurance policy disbursements, and costs related to the defense or adjudication
15 of insurance policy claims;
- 16 3) that the receivership court has exclusive jurisdiction over all matters pertaining to Spirit
17 and all persons are enjoined from commencing, bringing, maintaining, or further
18 prosecuting any action at law, suit in equity, arbitration, or special or other proceeding
19 against the Company, Receiver, or Special Deputy Receiver;
- 20 4) that the Receiver is vested with exclusive title both legal and equitable to all of Spirit’s
21 property wherever located, to administer under the general supervisions of the Court;
- 22 5) that the Receiver may change to her own name the name of any of Spirit’s accounts, funds
23 or other property or assets, held with any bank, savings and loan association, other
24 financial institution, or any other person, wherever located, and may withdraw such
25 funds, accounts and other assets from such institutions or take any lesser action necessary
26 for the proper conduct of the receivership; and
- 27 6) that the Receiver is authorized to establish a receivership claims and appeal procedure,
28 for all receivership claims. The receivership claims and appeals procedures shall be used

1 to facilitate the orderly disposition or resolution of claims or controversies involving the
2 receivership or the receivership estate.

3 On September 16, 2019, the Receiver filed a consolidated motion for a Final Order Placing Spirit
4 Commercial Auto Risk Retention Group into Liquidation, and for an Order Setting a Claims Filing
5 Deadline, and Granting Related Relief (the “Consolidated Motion”). The Consolidated Motion was
6 heard and granted on October 24, 2019. On November 6, 2019, the Court entered its Final Order Placing
7 Spirit into Liquidation (the “Liquidation Order”) and its Final Order Setting Claims Filing Deadline for
8 Spirit and Related Relief (“the Claims Order”). The Claims Order established a Claims Filing Deadline,
9 and procedures for filing claims against Spirit. The Liquidation Order also granted the Receiver’s
10 request to formally place Spirit into liquidation effective on November 6, 2019. On September 30, 2020,
11 the Court entered an *Order Extending the Claims Filing Deadline for Spirit Commercial Auto Risk*
12 *Retention Group, Inc.* The Claims Filing Deadline is now **May 31, 2021**.

13 II.

14 RECEIVERSHIP ADMINISTRATION

15 A. Notice of Developments in Receivership

16 The Receiver initially distributed notices regarding the Permanent Receivership Order to all
17 interested parties of Spirit, as detailed in the Receiver’s prior quarterly status reports. On August 19,
18 2019, the Court entered its Order Regarding Motion for Instructions Including Notice Requirements (the
19 “Notice Order”). The Receiver, pursuant to the requirements of the Notice Order, has given notice to
20 interested parties of the Liquidation Order, the Claims Order, and the approved procedures for filing
21 claims against Spirit in receivership.² More recently, the Receiver has provided notice of the new
22 extended Claims Filing Deadline. Future notices about Spirit’s receivership will be provided to
23 interested parties in accordance with the Court’s Notice Order.

24
25
26
27 ² The Receiver’s Fourth Status Report (available at www.spiritinsure.com) provides a detailed description of the
28 notice procedures and the steps taken by the Receiver to provide notice to all interested parties of Spirit.

1 **B. Claims Administration and Third-Party Support Services**

2 TRISTAR Risk Management (“TRISTAR”) is assisting the Receiver in evaluating the incoming
3 Proofs of Claim (“POC”).³ There have been 1,173 POC submissions received to date. The Receiver
4 continues to send notice letters to parties to be sure that they are aware of the claim procedures,
5 particularly when the Receiver is able to locate contact information for new claimants not previously
6 recorded in the file (*i.e.*, because complete records were not established or kept by Criterion).

7 As previously reported, the Receiver must review each POC form to be sure it is complete and
8 that it complies with the requirements of NRS 696B.330 and the procedures established by the
9 Receivership Court. In many other instances the POC form is complete, but the claim is lacking in some
10 key document and/or information that is needed to fully evaluate and determine the claim(s). The
11 claimant is then provided a written notice, and the opportunity to submit additional materials to cure the
12 defect. This is a key part of the work that is ongoing at this time in claims administration, in addition to
13 reviewing and evaluating the POCs that are complete. After the May 31, 2021, Claims Filing Deadline,
14 the Receiver will prepare to send Notices of Claim Determination to those who submitted timely POCs.

15 The United States has filed a POC in the receivership, asserting the priority of its claims—if any
16 (they are unknown at this time according to the POC)—over and above any other claims against the
17 estate pursuant to 31 U.S. Code § 3713, also known as the government “superpriority” statute. The
18 Receiver will report further on this matter in subsequent status reports. This matter remains pending as
19 of this Eighth Status Report.

20 The policy data of Spirit is held in the Aspire Information System (“Aspire”), which was created
21 by Maple Technologies. The Receiver believes that this system is still of value to the receivership,
22 particularly during the pendency of the POC process and certain litigation matters. The Receiver will
23 regularly review the need for this system.

24 Actuarial firm Oliver Wyman Actuarial Consulting, Inc. (“Oliver Wyman”) has been engaged to
25 prepare actuarial estimates for Spirit’s claims and future losses.

26 _____
27 ³ As reported in the previous status report, TRISTAR has also conducted a review of Spirit’s open claim files,
28 assessed the reasonableness of the claim reserves previously set by the Company and its claims manager, Criterion, and made
recommendations as to any reserve adjustments needed. In short, and among other findings, TRISTAR found that the
Company was grossly under-reserved. The report is attached as an exhibit to the Receiver’s Sixth Status Report, available at
www.SpiritInsure.com.

1 Calhoun, Thompson & Matza, L.L.P. is a CPA firm that has been hired by the Receiver to prepare
2 Spirit’s federal and state tax returns.

3 PALOMAR FINANCIAL, LC (“Palomar”) is an affiliated company of the Special Deputy Receiver
4 and performs financial and technical administrative support services for Spirit in receivership—and
5 those services are now being performed by Palomar. Palomar is being used to facilitate the
6 receivership’s administration of financial matters. The Receiver, with assistance from Palomar, has
7 finalized all outstanding premium tax matters for the Company, including tax matters that were left
8 outstanding and overdue by former Spirit leadership at the outset of the Receivership.

9 The Receiver has continued to receive notice from time to time of lawsuits filed against Spirit in
10 violation of the Court’s Permanent Receivership Order. The Receiver will continue its established
11 procedure of writing to the parties involved to inform them of the injunctions of the Permanent
12 Receivership Order, and to request a voluntary dismissal of Spirit from the matter. Thus far, the majority
13 of counsel have been amenable to such requests. In limited cases and only when absolutely necessary,
14 the Receiver will engage outside counsel to address ongoing or repeated violations of this Court’s orders.

15 The Receiver has been required to engage local outside counsel Frost Brown Todd in a Kentucky
16 matter where a plaintiff’s attorney refused to dismiss Spirit as a defendant, even after numerous warnings
17 that he is in violation of the Receivership Court’s orders. After extensive briefing by the parties in this
18 matter, the federal proceeding has been stayed pending the outcome of Spirit’s liquidation.⁴ As an added
19 precaution to ensure that the Nevada order is given the full faith and credit it is due,⁵ the Permanent
20 Receivership Order has been domesticated in Kentucky.

21 It was also necessary to engage outside counsel Fuller Law Group (and the paralegal services
22 firm Inquest Resources) in the state of Texas, to file a Plea in Abatement when a plaintiff’s attorney
23 refused to acknowledge the Permanent Receivership Order. The Permanent Receivership Order was
24 domesticated in Texas as part of the effort to have this suit dismissed. The matter was finally resolved
25

26 ⁴ The federal court exercised the discretion afforded to it by *Burford v. Sun Oil Co.*, 319 U. S. 315 (1943), to stay
27 the plaintiff’s claim against Spirit pending resolution of this liquidation proceeding.

28 ⁵ The majority of states give effect to the insurance receivership orders and stays of “reciprocal states” (*i.e.*, states
that have enacted a comprehensive legislative framework, typically based on model laws, for insurance company
receiverships). Kentucky and Nevada are reciprocal states.

1 with an Agreed Order Granting Plea in Abatement. The Receiver may elect to domesticate the
2 Permanent Receivership Order in other states as well as, and when, necessary to expedite violations of
3 the permanent injunction.

4 **C. Records**

5 The Receiver has made efforts to secure Spirit’s electronic records from third parties. The
6 Receiver will continue with the evaluation of the Company and will continue gathering the Company’s
7 records and data. This process will remain ongoing as the Receiver continues to identify parties that
8 may have information or records that will assist in carrying out the liquidation of Spirit. The recovery
9 of Spirit’s complete records from third parties remains incomplete.

10 **D. Asset Recovery Litigation**

11 On February 6, 2020, the Receiver filed an asset recovery lawsuit against a number of parties,
12 including Thomas Mulligan, CTC, Criterion, Spirit’s former directors and officers, various other former
13 vendors of Spirit, and various other related persons and entities (“Asset Recovery Lawsuit”). The Asset
14 Recovery Lawsuit was filed in the Eighth Judicial District Court of Clark County, Nevada and assigned
15 Case No. A-20-809963-B. Excerpts from the Asset Recovery Lawsuit are included below to illustrate
16 the nature of the Receiver’s complaint are as follows:

- 17 1. This complaint arises out of a vast fraudulent enterprise orchestrated by Defendant
18 Thomas Mulligan and others, by which the Defendants operated a multitude of
19 interrelated companies in the insurance service industry for their own benefit and to
20 the detriment of their customers and insureds, including Spirit.
- 21 2. Through a web of interrelated companies that wrote insurance policies, provided so-
22 called financing for insureds wishing to purchase insurance, processed insurance
23 premiums, and/or adjusted and paid insurance claims, and collected Spirit’s assets
24 (the “Mulligan Enterprise”), Mulligan and his confederates siphoned millions of
25 dollars from Spirit.
- 26 3. While Mulligan was the primary architect of his Enterprise, Defendant Pavel
27 Kapelnikov participated heavily in the design and implementation of the scheme and
28 assisted with perpetuating the fraud through his ownership and control of Mulligan

1 Enterprise entities, including a key Spirit services provider, which breached its
2 obligations to Spirit. Mulligan and Pavel Kapelnikov used the many moving pieces
3 of the Mulligan Enterprise to ensure that the entities they owned and controlled
4 enjoyed preferential treatment as creditors by hiding the true and dismal financial
5 condition of Spirit to prolong its operations while they continued to arrogate funds
6 to themselves with a corresponding detriment to Spirit, its policy holders, and its
7 other non-insider creditors.

- 8 4. As a result of this scheme, Spirit – an insurance company that insured trucking
9 companies – became financially insolvent and was placed into permanent
10 receivership and subsequently into liquidation, leaving hundreds of unpaid claims
11 and a host of creditors. This complaint seeks to recover, on behalf of Spirit and those
12 affected, the tens of millions of dollars that are owed to Spirit from its principal
13 Mulligan and his cohorts and/or the companies over which he exercised interest
14 and/or control, including companies that were contracted to provide services to Spirit
15 that absconded with virtually all of Spirit’s assets and third-party companies to which
16 Spirit’s funds were siphoned.

17 On March 27, 2020, an answer was filed on behalf of certain Defendants, along with a demand
18 for jury trial: Pavel Kapelnikov, Chelsea Financial Group, Inc.,⁶ Global Forwarding Enterprises, LLC,
19 Kapa Management Consulting, Inc., and Kapa Ventures, Inc. The following Defendants have also filed
20 answers to the suit: Brenda Guffey, ICAP Management Solutions, LLC, Daniel George, Lexicon
21 Insurance Management, LLC, James Marx, Igor and Yanina Kapelnikov (along with a demand for jury
22 trial), and Carlos and Virginia Torres. A default judgment was entered on April 24, 2020, against Global
23 Capital Group, LLC, after no answer or other appearance was filed. A three-day Notice of Intent to Take
24 Default Upon Defendant John S. Maloney was filed on May 1, 2020. On May 13, 2020, Defendant John
25 Maloney filed an Answer. On May 14, 2020, an Answer was filed by Defendant Thomas Mulligan.
26 Also, on May 14, 2020, an Answer was filed by Six Eleven, LLC, Quote My Rig, LLC, New Tech
27

28 ⁶ Both the California and New Jersey corporations.

1 Capital, LLC, 195 Gluten Free, LLC, 10-4 Preferred Risk Managers, LLC, Ironjab, LLC, Fourgorean
2 Capital, LLC, and Chelsea Holding Company, LLC. On May 21, 2020, a default judgment was entered
3 against Chelsea Holdings, LLC⁷ and Chelsea Financial Group, Inc. However, on June 4, 2020, a
4 Stipulation and Order was entered to set aside the default judgment against Chelsea Financial Group,
5 Inc. On June 10, 2020, Chelsea Financial Group, Inc. filed its answer to the Complaint. On August 24,
6 2020, Matthew Simon filed an Answer. On August 26, 2020, Scott McCrae filed an Answer.

7 On May 14, 2020, CTC⁸ and Criterion Claim Solutions of Omaha, Inc. each filed Motions to
8 Compel Arbitration of the claims asserted by the Receiver in her asset recovery lawsuit. On June 4,
9 2020, the Receiver filed her Oppositions to Criterion's and to the CTC Defendants' Motions to Compel
10 Arbitration. On June 11, 2020, CTC and Criterion Claim Solutions of Omaha, Inc. each filed a Reply in
11 Support of their Motion to Compel Arbitration.

12 On May 14, 2020, Defendants Scott McCrae and Matthew Simon filed a Motion to Dismiss the
13 Complaint. On June 4, 2020, the Receiver filed her Opposition to Defendants Scott McCrae and
14 Matthew Simon, Jr.'s Motion to Dismiss. On June 11, 2020, Defendants Scott McCrae and Matthew
15 Simon filed a Reply in Support of their Motion to Dismiss Plaintiff's Complaint. A hearing of the above
16 matters (*i.e.*, the motions to compel arbitration and to dismiss) was initially set for June 18, 2020.

17 On June 15, 2020, a Minute Order was issued by Judge Mark R. Denton ruling that due to the
18 ongoing Coronavirus situation, the June 18, 2020, hearing was deemed submitted on the briefs and under
19 advisement, and the hearing was vacated from the calendar. On July 6, 2020, Judge Denton granted
20 Criterion's Motion to Compel Arbitration, and ruled that it would dismiss the action without prejudice.
21 However, the Court was not persuaded by Criterion's contention that the Receiver's positions are
22 frivolous, and it thus denied Defendant's request for attorneys' fees. The Order was entered on July 22,
23 2020. On August 5, 2020, the Receiver filed her Motion for Reconsideration of the Court's July 22,
24 2020, Order Regarding Criterion Claim Solutions of Omaha Inc.'s Motion to Compel Arbitration;

25
26 ⁷ Thomas Mulligan has attested that he is a member of defendant Chelsea Holdings Company, LLC, but is not
27 affiliated or associated in any way with Chelsea Holdings, Inc. Counsel located the real member of Chelsea Holdings, Inc.
and the Secretary of State filings have been corrected. Chelsea Holdings, LLC was voluntarily dismissed without prejudice
from this matter on December 21, 2020.

28 ⁸ Here, "CTC" refers to Defendants CTC Transportation Insurance Services of Missouri LLC; CTC Transportation
Insurance Services, LLC; and CTC Transportation Insurance Services of Hawaii LLC.

1 Criterion filed its Opposition to the Receiver’s Motion on August 19, 2020. A hearing was set for
2 September 8, 2020. On September 29, the Court denied the Receiver’s Motion for Reconsideration of
3 the Court’s July 22, 2020, Order Regarding Criterion Claim Solutions of Omaha Inc.’s Motion to Compel
4 Arbitration. The Receiver plans on filing a writ petition in the Nevada Supreme Court.

5 On July 6, 2020, Judge Denton also granted the CTC Defendants’ Motion to Compel Arbitration
6 – the Order was entered July 17, 2020. Finally, on July 6, 2020, the Court granted in part and denied in
7 part Defendants Scott McCrae and Matthew Simon, Jr.’s Motion to Dismiss. The order was entered on
8 August 10, 2020. On July 30, 2020, the Receiver filed a Motion for Reconsideration and/or Clarification
9 of the Court’s July 17, 2020, Order Regarding CTC Defendants’ Motion to Compel Arbitration. On
10 August 13, 2020, the CTC Defendants filed their Opposition to the Receiver’s Motion for
11 Reconsideration. On August 24, 2020, the Receiver filed her Reply in Support of the Motion for
12 Reconsideration and/or Clarification of the Court’s July 17, 2020, Order. A hearing of the Receiver’s
13 Motion for Reconsideration was set for August 31, 2020, but was vacated and deemed submitted on the
14 briefs and under advisement. On September 16, 2020, the Court denied the Receiver’s Motion for
15 Reconsideration and/or Clarification of the Court’s July 17, 2020, Order Regarding CTC Defendants’
16 Motion to Compel Arbitration. The Receiver plans on filing a writ petition in the Nevada Supreme
17 Court.

18 On August 24, 2020, nine of the defendants⁹ filed a Motion to Stay Pending Arbitration.
19 Nineteen additional defendants then filed joinders to the Motion to Stay.¹⁰ On September 11, 2020, the
20 Receiver filed an opposition to the Motion to Stay and joinders thereto. A hearing was held on the
21

22 ⁹ Six Eleven LLC, Quote My Rig, LLC, New Tech Capital, LLC, 195 Gluten Free LLC, 10-4 Preferred Risk
23 Managers, Inc., Ironjab LLC, Fourgorean Capital LLC, Chelsea Holdings Company, LLC (“Chelsea Holdings”), and Chelsea
Financial Group, Inc. (MO) (“Chelsea Financial MO”) (collectively, “Six Eleven Defendants”).

24 ¹⁰ Brenda Guffey filed a joinder on September 2, 2020. James Marx, John Maloney, Virginia Torres, and Carlos
25 Torres (Marx, Maloney, V. Torres, and C. Torres will be referred to collectively herein as the “Spirit Director Defendants”)
26 also filed a joinder on September 2, 2020. On September 3, 2020, Defendants Pavel Kapelnikov, Chelsea Financial Group,
27 Inc. (New Jersey) (“Chelsea Financial New Jersey”), Chelsea Financial Group, Inc. (California) (“Chelsea Financial
28 California”), Global Forwarding Group, Inc. (“Global Forwarding”), Kapa Management Consulting, Inc. (“Kapa
Management”), Kapa Ventures Inc. (“Kapa Ventures”), Igor Kapelnikov, and Yanina Kapelnikov (collectively “Kapelnikov
Group”) filed a joinder. Thomas Mulligan also filed a joinder on September 3, 2020. Additionally, on September 3, 2020,
Defendants Lexicon Insurance Management LLC (“Lexicon”), ICAP Management Solutions, LLC (“ICAP”) and Daniel
George (“George”) collectively (“Lexicon/George Group”) filed a joinder. Matthew Simon Jr. and Scott McCrae also filed a
joinder on September
4, 2020.

1 Motion to Stay & Opposition thereto via videoconference on September 28, 2020. On October 2, 2020,
2 the Court granted the Motion to Stay Pending Arbitration and the Joinders thereto, “being persuaded by
3 the Motion/Joiners that Plaintiff’s claims against the Defendants are so intertwined with those against
4 the parties subject to arbitration that a stay is warranted for the reasons advanced by Defendants.” The
5 formal Notice of Entry of Order was entered on November 17, 2020. The Receiver plans on filing a writ
6 petition in the Nevada Supreme Court.

7 On December 31, 2020, QBE Insurance Corporation (“QBE”) submitted its Application for
8 Relief from the Permanent Injunction (the “QBE Application”) so as to permit QBE to advance defense
9 costs to the individual defendants (*i.e.*, Spirit’s former directors and officers) named in Case No: A-20-
10 809963-C. QBE issued a professional liability policy to Spirit for the June 1, 2018 to June 1, 2019 Policy
11 Period. According to the QBE Application, Spirit’s former directors and officers have sought coverage
12 for defense and indemnity from QBE in the Asset Recovery lawsuit. Per the QBE Application, “QBE
13 has determined that it is contractually obligated under the Policy to advance certain Defense Costs (as
14 defined) and that these costs will likely exceed the Policy’s \$1,500,000 Limit of Liability.” QBE is
15 seeking relief from the injunctions within the Permanent Receivership Order, so that it may advance
16 defense costs to the individual defendants. The Receiver previously sent a notice of claim and demand
17 for policy limits to QBE on May 29, 2019. On January 13, 2021, the Receiver filed a Limited Response
18 to Application for Relief from Permanent Injunction, stating *inter alia* that it is the Receiver’s belief that
19 the Court is best suited to approve and/or deny QBE’s request to proceed as outlined in the QBE
20 Application. A hearing has been scheduled for this matter on February 3, 2021.

21 **E. Receivership Assets and Liabilities**

22 The Receiver has been gathering information and evaluating the assets and liabilities of Spirit.
23 A further preliminary liability analysis will be determined after TRISTAR further evaluates claims and
24 an actuary prepares an updated estimate of Spirit’s liabilities. Below is an overview of some key assets
25 and liability matters thus far identified by the Receiver.

- 26 1. CTC owes a large balance to Spirit that is at least more than \$40 million and may
27 be much greater after further discovery. The Receiver filed the Asset Recovery
28 Lawsuit seeking the return of this money *inter alia* as detailed above.

- 1 2. The cash and invested assets of the Company were approximately \$41,171,940.54
2 as of December 31, 2020.
- 3 3. Gross Loss and Loss Adjustment Expense and General Liability Losses: The
4 gross loss and loss adjustment amounts will be further evaluated and projected by
5 outside actuaries for Spirit.
- 6 4. Other Assets: There is no known tangible personal property or real property
7 owned by the Company.

8 We are enclosing the consultants and Special Deputy Receiver bill payments since the last status
9 report filed with the Court. Detailed billings are submitted *in camera*, and summaries of such bills are
10 submitted as Exhibit 1 to this report.¹¹ The Receiver is including, as Exhibit 2 attached hereto, a cash
11 flow report for December 2020 reflecting recoveries, disbursements, and cash flow since the receivership
12 began.

17 ¹¹ The *in-camera* materials are being submitted in a separate envelope that reflect paid invoices. Certain billings
18 submitted to the Court are appropriate for *in camera* review (as opposed to being made part of a public filing). More
19 particularly, and as discussed in further detail below, certain consultants in this matter will provide expert witness related
20 services. As such, the billing entries relating thereto should be considered confidential and/or otherwise not subject to
21 discovery.

22 In this regard, courts have held that the bills of legal counsel and experts may be withheld from legal discovery and
23 are not subject to legal disclosure, as this information may provide indications or context concerning potential litigation
24 strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-
25 00929- GMN-PAL, 2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged because
26 they reveal a party’s strategy and the nature of services provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-
27 75 (9th Cir. 1990) (considering whether or not fee information revealed counsel’s mental impressions concerning litigation
28 strategy). Other courts that have addressed this issue have recognized that the “attorney-client privilege embraces attorney
time, records and statements to the extent that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l Grp., Inc.*, 116 F.R.D. 211, 213 (N.D. Cal. 1986).

29 The *in-camera* review should apply not only to documentation concerning attorney fees, but it also extends to
30 “details of work revealed in [an] expert’s work description [which] would relate to tasks for which she [or he] was
31 compensated[.]” a situation which is “analogous to protecting attorney-client privileged information contained in counsel’s
32 bills describing work performed.” *See DaVita Healthcare Partners, Inc. v. United States*, 128 Fed. Cl. 584, 592-93 (2016);
33 *see also Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (4th Cir. 1999) (recognizing that “correspondence, bills, ledgers,
34 statements, and time records which also reveal the motive of the client in seeking representation, litigation strategy, or the
35 specific nature of the services provided, such as researching particular areas of law,” are protected from disclosure) (quoting
36 *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d 127, 129 (9th Cir. 1992)).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

CONCLUSION

In compliance with this Court’s instructions for a status report regarding the affairs of the Company, the Receiver has submitted the aforementioned status report and requests that the Court approve this Eighth Status Report and the actions taken by the Receiver.

DATED this 20th day of January 2021.

Respectfully submitted:

Barbara D. Richardson, Commissioner of Insurance of the State of Nevada, in her Official Capacity as Statutory Receiver of Delinquent Domestic Insurer

By: /s/ CANTILO & BENNETT, L.L.P.
Special Deputy Receiver
By Its Authorized Representative
Mark F. Bennett

MARK E. FERRARIO, ESQ. (SB# 1625)
KARA HENDRICKS, ESQ. (SB# 7743)
TAMI D. COWDEN, ESQ. (SB# 8994)
GREENBERG TRAUIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135

*Counsel for Barbara D. Richardson,
Commissioner of Insurance,
as the Permanent Receiver for Spirit
Commercial Auto Risk Retention Group, Inc.*

CERTIFICATE OF SERVICE

1
2 I hereby certify that on this 20th day of January 2021, a true and correct copy of the foregoing
3 ***Eighth Status Report*** was filed with the Clerk of the Court using the Odyssey eFileNV Electronic
4 Service system and served on all parties with an email-address on record, pursuant to Administrative
5 Order 14-2 and Rule 9 of the N.E.F.C.R.

6 The date and time of the electronic proof of service is in place of the date and place of deposit in
7 the U.S. Mail.

8
9
10 /s/ Andrea Lee Rosehill
An employee of Greenberg Traurig, LLP