



1 **SR**  
2 MARK E. FERRARIO, ESQ.  
3 Nevada Bar No. 01625  
4 DONALD L. PRUNTY, ESQ.  
5 Nevada Bar No. 08230  
6 **GREENBERG TRAUERIG, LLP**  
7 10845 Griffith Peak Drive  
8 Suite 600  
9 Las Vegas, Nevada 89135  
10 Telephone: (702) 792-3773  
11 Facsimile: (702) 792-9002  
12 Emails: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)  
13 [pruntyd@gtlaw.com](mailto:pruntyd@gtlaw.com)

14 *Counsel for Scott Kipper, Commissioner of Insurance,*  
15 *as the Permanent Receiver for Nevada Health CO-OP*

16 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 STATE OF NEVADA, EX REL. ) CASE NO. A-15-725244-C  
19 COMMISSIONER OF INSURANCE, IN HIS )  
20 OFFICIAL CAPACITY AS STATUTORY ) DEPARTMENT 21  
21 RECEIVER FOR DELINQUENT DOMESTIC )  
22 INSURER, )  
23 )  
24 Plaintiff, )  
25 )  
26 vs. )  
27 )  
28 NEVADA HEALTH CO-OP, )  
29 )  
30 Defendant. )

31 **THIRTY-EIGHTH STATUS REPORT**

32 COME NOW, Commissioner of Insurance Scott Kipper in his capacity as Receiver of Nevada  
33 Health CO-OP (“NHC,” or the “CO-OP”), and CANTILO & BENNETT, L.L.P., Special Deputy Receiver  
34 (“SDR” - SDR and the Commissioner as Receiver are referred to collectively herein as “Receiver”)  
35 and file this Receiver’s Status Report in the above-captioned receivership.

36 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

37 The CO-OP was a state-licensed health insurer, formed in 2012 as a Health Maintenance  
38 Organization, with a Certificate of Authority granted by the State of Nevada Division of Insurance

**GREENBERG TRAUERIG, LLP**  
10845 Griffith Peak, Suite 600, Las Vegas, Nevada 89135

1 effective January 2, 2013. NHC was an Internal Revenue Code 501(c)(29) Qualified Non-Profit  
2 Health Insurance Issuer, entitled to tax exemption by the Internal Revenue Service. NHC was formed  
3 under a provision of the Patient Protection and Affordable Care Act (“ACA”) providing for the  
4 formation of Consumer Operated and Oriented Plans. Having received from the Centers for Medicare  
5 and Medicaid Services (“CMS”) of the United States Department of Health and Human Services  
6 (“HHS”) a start-up loan of \$17,080,047, and a “solvency” loan of \$48,820,349, NHC was required to  
7 operate as a non-profit, consumer-driven health insurance issuer for the benefit of the public. The CO-  
8 OP’s primary business was to provide ACA-compliant health coverage to residents of Nevada, and it  
9 operated its business for the benefit of Nevadans within the state, save for certain arrangements to  
10 provide nationwide health coverage to Nevadans traveling outside the state in certain circumstances.  
11 NHC began selling products on and off the Silver State Health Insurance Exchange (the “Exchange”)  
12 on January 1, 2014. Its products included individual, small group, and large group health care  
13 coverages.

14 On October 1, 2015, this Court issued its Order Appointing the Acting Insurance  
15 Commissioner, Amy L. Parks as Temporary Receiver of NHC Pending Further Orders of the Court  
16 and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270. Further, on October 14, 2015,  
17 the Receivership Court entered its Permanent Injunction and Order Appointing Commissioner as  
18 Permanent Receiver of Nevada Health CO-OP, appointing the law firm of CANTILO & BENNETT,  
19 L.L.P. as SDR of NHC, in accordance with Chapter 696B of the Nevada Revised Statutes.

20 This Court, through its Final Order Finding and Declaring Nevada Health CO-OP to be  
21 Insolvent and Placing Nevada Health CO-OP into Liquidation (the “Final Order”) dated September 20,  
22 2016, adjudged NHC to be insolvent on grounds that it was unable to meet obligations as they mature.  
23 The Final Order also authorized the Receiver to liquidate the business of NHC and wind up its ceased  
24 operations pursuant to applicable Nevada law. The Receiver has since transitioned the receivership  
25 estate from rehabilitation to liquidation.

26 The Receiver continues to file quarterly status reports as ordered by this Court.

27 ///

28 ///

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

## II. RECEIVERSHIP ADMINISTRATION

### Receivership Administrative Services and Oversight

CANTILO & BENNETT, L.L.P., as SDR of NHC, manages the receivership estate and conducts its affairs. PALOMAR FINANCIAL, LC (“Palomar”), an affiliate of the SDR, performs administration, information technology, and other related services for the Receiver under the supervision of the SDR. The Receiver has included an informational copy, as **Exhibit 1** to this Status Report of the invoices approved or paid to the SDR and other receivership consultants since the last status report to this Court.<sup>1</sup>

### Resolution of Outstanding Receivership Matters

#### *Tax Matters*

The Receiver has filed federal tax returns for NHC for the tax years 2015-2023. The Receiver also filed prompt tax assessment requests with the Internal Revenue Service for NHC’s tax obligations for the tax years 2015-2023. On October 4, 2024, the IRS approved the Receiver’s requests and

---

<sup>1</sup> The *in camera* materials are being submitted in a separate envelope that reflect approved or paid invoices.

Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made part of a public filing). More particularly, and as discussed in further detail below, certain consultants in this matter are providing expert witness related services. As such, the billing entries relating thereto should be considered confidential and/or otherwise not subject to discovery.

In this regard, courts have held that the bills of legal counsel and experts may be withheld from legal discovery and are not subject to legal disclosure, as this information may provide indications or context concerning potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc. v. Avana Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged because they reveal a party’s strategy and the nature of services provided); *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not fee information revealed counsel’s mental impressions concerning litigation 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).

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

1 provided a closing date of February 19, 2026, for the 2015-2021<sup>2</sup> tax returns. The IRS has not yet  
2 responded to the Receiver’s 2022 and 2023 prompt assessment requests.

3 ***Claims Adjudications & Distributions***

4 Notices of Claim Determination (“NCDs”) were mailed for healthcare claims previously  
5 submitted by providers to NHC’s Javelina Claims Processing Database (the “Provider Claims”). The  
6 total allowed amount of these approved Provider Claims is approximately \$33.7 million. The NHC  
7 members also received NCDs that showed them the amount that the SDR approved to be paid to their  
8 providers, and the amount of member responsibility (*i.e.*, the co-pays, deductibles, and coinsurance),  
9 if any, that they may owe on their providers’ outstanding claims. On October 16, 2019, the SDR  
10 received approval from the Court to make a distribution of certain estate assets for the partial payment  
11 (*i.e.*, approximately 14.6% pro rata) of these Provider Claims, which have been classified by the SDR  
12 as claims made under NHC policies pursuant to NRS 696B.420(1)(b). After the recent recovery of  
13 CMS Receivables (further described herein), the Receiver filed a Motion requesting approval to  
14 distribute additional estate assets for the payment of the Provider Claims. The Motion was approved,  
15 and the Receiver is now in the process of making an additional distribution of approximately  
16 \$5.1 million, which would bring the total pro rata distribution for the Provider Claims to thirty percent  
17 (30%). To the extent that funds are not used for these Provider Claims, they retain their classification  
18 as general assets of the Receivership available to pay other expenses.

19 As previously reported, the SDR must collect certain necessary documentation from the  
20 providers in advance of making any claim payments. For the first distribution that was approved by  
21 the Court in 2019, many providers either did not respond to the SDR’s request for the needed  
22 documentation or sent back defective paperwork. The Receiver in his discretion did not pay these  
23 claims for lack of the proper documentation.

24 As approval to make a second distribution has been granted, such claimants will now have  
25 another opportunity to submit the necessary paperwork to obtain both their initial unpaid distribution  
26 amount, along with the second approved distribution payment. The Receiver has already mailed notice

---

27 <sup>2</sup> Due to an apparent typo in the IRS closing date notice, the tax year 2017 was excluded (“2018” was  
28 referenced twice, and it appears one of these references should have instead read “2017”). The Receiver will  
clarify and confirm with the IRS that the closing date provided also applies to the 2017 tax year.

1 to the claimants of the second distribution, is processing the responsive distribution paperwork  
2 submitted by the claimants, and has begun mailing distribution checks to those claimants who have  
3 submitted the required documentation.

4 The Receiver is seeking further litigation recoveries to enable additional provider claim  
5 distributions and anticipates further payment for these provider claims next year, subject to receiving  
6 proper documentation.

7 The SDR also mailed NCDs for those Proofs of Claim submitted to the SDR relating to Policy  
8 Claims (*i.e.*, Class B claims pursuant to NRS 696B.420(1)(b)). The total allowed amount for the  
9 members' claims, \$5,102.64, is subject to a potential small increase as two NCD objections have been  
10 filed and remain pending.

11 Including the two member objections described above, there are twenty-eight (28) unresolved  
12 and outstanding objections sent by NHC members of the NCDs that were mailed pertaining to  
13 outstanding healthcare claims submitted by providers to NHC's Javelina Claims Processing  
14 Database.<sup>3</sup> The Receiver will request by separate motion that the Court set a hearing for the remaining  
15 appeals, pursuant to NRS 696B.330.

16 There are fifty-one proofs of claim ("POC") assigned to a priority Class "C" (*i.e.*,  
17 NRS 696B.420(1)(c)) or lower.<sup>4</sup> The SDR has now issued NCDs to nearly all of these claimants. It  
18 appears unlikely at this time that the estate will have sufficient assets to make distributions to claims  
19 assigned priority below Class B.

20 ***CMS Receivables***

21 As explained in prior status reports, and throughout the pendency of the receivership, the  
22 Receiver has worked to resolve certain outstanding matters relating to the collection of amounts due  
23 under the various federal receivables programs, of which the CO-OP was a participant, and which are  
24

---

25 <sup>3</sup> Members received a copy of the claim determinations that were sent to their providers, so that the  
26 members could see any denied claims, and the deductible, co-pay, and coinsurance that was applied to each of  
the allowed provider claims (*i.e.*, the amount of the member's responsibility on each claim) and have an  
opportunity to appeal.

27 <sup>4</sup> This does not include a claim by the U.S. Department of Health and Human Services, which the SDR  
28 has previously reported to this Court. The government did not file an appeal of the SDR's determination of its  
claim.

1 administered primarily by CMS.

2 NHC was owed over \$55 million for CMS Receivables.<sup>5</sup> As described below, the Receiver  
3 initiated asset recovery litigation against the United States for the recovery of these receivables. As  
4 of this report, the matter has concluded with the payment of over \$55 million by the United States  
5 through the Judgment Fund. The recovery of these assets has allowed the SDR to make further claim  
6 payments to estate creditors—to include the above-referenced provider claim distributions.

### 7 **Engagement of Additional Legal Counsel**

8 The Receiver has engaged the law firm of Greenberg Traurig LLP (“Greenberg Traurig”), as  
9 outside counsel in various litigation matters. As reported in the prior status report, the Receiver has  
10 retained the Lewis Roca firm as conflicts counsel and to address other matters that may arise in which  
11 Greenberg Traurig is not representing the receivership estate.

### 12 **Asset Recovery Action Against Various Professionals and Other Firms Who Performed Services** 13 **for and on Behalf of NHC**

14 As previously reported by the Receiver, the Asset Recovery Action has now been fully settled  
15 among all parties, and the action by the Receiver is now closed. Those interested should refer to  
16 previously filed status reports (available at [www.nevadahealthcoop.org](http://www.nevadahealthcoop.org)) for historical information  
17 about the Asset Recovery Action.

### 18 **Opinion and Order in the Action Against the United States in the Court of Federal Claims**

19 An abbreviated summary of the most recent events in this matter is included in this report. A  
20 detailed timeline of this litigation from its inception is provided in the prior 37<sup>th</sup> Status Report.

21 On November 8, 2018, the Receiver filed a Complaint in the United States Court of Federal  
22 Claims (“CFC Complaint”) against the United States for monetary amounts owed to NHC under the  
23 Consumer Operated and Oriented Plan program organized pursuant to the ACA. On January 4, 2022,  
24 U.S. Court of Federal Claims entered judgment for the Receiver for \$55,504,468.39. The Government  
25 filed a Notice of Appeal to the U.S. Court of Appeals for the Federal Circuit (the “Federal Circuit”)  
26

---

27 <sup>5</sup> NHC sold a portion, but not all, of its interest in the Risk Corridors receivables, as detailed in the  
28 Receiver’s Seventeenth Status Report to this Court. After the sale, a portion of the total Risk Corridors  
receivables remained due NHC, as well as the full portion of non-Risk Corridors receivables owed by CMS.

1 of this judgment on March 4, 2022. The Federal Circuit heard oral arguments in this matter on  
2 January 11, 2024. On August 9, 2024, the Federal Circuit affirmed in part and vacated in part the  
3 decision of the U.S. Court of Federal Claims.

4 The Government did not seek to further appeal the Federal Circuit’s decision. On November 6,  
5 2024, NHC received payment of the total judgment in the amount of \$55,504,468.39 from the United  
6 States Department of Treasury (*i.e.*, the Judgment Fund). Pursuant to the purchase agreement that was  
7 previously approved by this Court on October 16, 2019,<sup>6</sup> NHC distributed \$40,481,336.90 of the  
8 judgment to the purchaser of the Risk Corridors receivable (*i.e.*, CM Squared RC IV, LLC) and NHC  
9 retained \$15,023,131.99 of the total judgment proceeds.

10 The Receiver filed an application for attorney fees and expenses under the Equal Access to  
11 Justice Act (“EAJA”). The Government opposed the application. On February 14, 2025, the Federal  
12 Circuit denied the Receiver’s application for attorney fees and expenses.

13 **Civil Action Against WellHealth Medical Associates, Medsource, and Certain Persons**

14 On December 14, 2021, the Receiver filed a complaint in the Eighth Judicial District Court,  
15 Case No. A-21-845440-B, against WellHealth Medical Associates, PLLC (“WellHealth”), Medsource  
16 Management Group, LLC (“Medsource”), and certain individual persons or estates of persons  
17 formerly or currently in positions of authority and responsibility within these organizations (the “State  
18 Court Case”), for the recovery of amounts which NHC alleges is owed in connection with certain  
19 illegal transactions which took place with NHC in health plan years 2014 and 2015, as well as certain  
20 related improper business transactions which involved the transfer of CO-OP funds to persons, and  
21 through mechanisms, which did not comply with the relevant laws and regulations. This case was  
22 initially filed in Department 5, but has been reassigned to Department 21.

23 On August 8, 2022, the parties filed a Stipulation and Order allowing the Receiver to Amend  
24 the Complaint, providing additional arguments and causes of action; alongside this, Plaintiff filed the  
25 First Amended Complaint in this action. Following some motion practice between the parties as  
26 covered in prior status reports, the State Court Case proceeded. Discovery was in progress and was  
27

28 \_\_\_\_\_  
<sup>6</sup> This purchase agreement is further detailed in the Receiver’s Seventeenth Status Report to this Court.

1 set to be completed by July 12, 2024. The trial of this case was set on a five-week trial stack for  
2 October 7, 2024. Efforts in the fall of 2023 to mediate failed and discovery in the case continued.

3 On November 16, 2023, the Court entered its *Findings of Fact, Conclusions of Law, and Order*  
4 *Denying Defendant Nino Pedrini’s Motion to Dismiss Based on Contractual Limitations or, in the*  
5 *Alternative, for Violation of the Statute of Limitations or, in Further Alternative, for Failure to State*  
6 *a Claim* (“Motion to Dismiss”). That same day, the Court denied defendant Pedrini’s *Motion for*  
7 *Reconsideration of his Motion to Dismiss*. On January 12, 2024, Defendant Pedrini filed his *Answer*  
8 *to Plaintiff’s Complaint and Joinder in Counterclaim*.

9 On December 12, 2023, the Court accepted the parties’ stipulation to consolidate the two  
10 related cases, *State of Nevada, ex rel., Commissioner of Insurance, Barbara Richardson in her official*  
11 *capacity as Receiver for Nevada Health Co-Op v. Nino Pedrini*, Case No. A-22-860744-C (the  
12 “*Pedrini Action*”), and *State of Nevada, ex rel., Commissioner of Insurance, Barbara Richardson in*  
13 *her official capacity as Receiver for Nevada Health Co-Op v. WellHealth Medical Associates*, Case  
14 No. A-21-845440-B (the “*WellHealth Action*”). Both cases arise out of the same series of transactions  
15 and occurrences, and involve common questions of law and fact.

16 The Receiver filed his *Motion for Partial Summary Judgment* against WellHealth on March 29,  
17 2024. On April 15, 2024, the Receiver filed notice with the Court that no opposition to the motion  
18 had been filed by any party, and requested the Court grant the Receiver’s motion. Also on April 15,  
19 2024, the Receiver filed a *Motion for Leave to File Second Amended Complaint* (“*Motion for Leave*  
20 *to Amend*”) in the WellHealth Action, and on April 29, 2024, Defendants Medsource, Robert Baratta,  
21 and Nino Pedrini filed an opposition to said motion. A hearing on the Receiver’s *Motion for Leave to*  
22 *Amend* was set for May 21, 2024. However, on April 17, 2024, WellHealth filed for bankruptcy (the  
23 “*WellHealth Bankruptcy Case*”) under Chapter 7 of Title 7 of the United States Code in the United  
24 States Bankruptcy Court for the District of Nevada (Case No. 24-11839-nmc).

25 Due to the bankruptcy filing, the parties agreed that until the bankruptcy court lifts the  
26 automatic stay under 11 U.S.C. § 362, this case and any pending hearings (such as the May 21, 2024,  
27 hearing) may not proceed. Based on this, the Court did not decide the Receiver’s *Motion for Partial*

28 ///



1 *Summary Judgment*, and later vacated the May 21, 2024, hearing on the Receiver’s *Motion for Leave*  
2 *to Amend*.

3 The WellHealth Bankruptcy Case is in progress. A creditors meeting was held on May 20,  
4 2024. On June 6, 2024, the Receiver filed a Proof of Claim in the WellHealth Bankruptcy Case. The  
5 Receiver has served subpoenas on Robert Baratta, Nino Pedrini, Medsource, Brian Shapiro  
6 (Bankruptcy Trustee), First Independent Bank, and Michele R. Volker (in her individual capacity and  
7 in her capacity as Trustee of the Volker Family Trust, and Volkner Investment Trust). The Trustee  
8 produced WellHealth’s tax return for 2019. First Independent Bank produced the bank statements from  
9 WellHealth, the PC, and Medsource dating back to 2018. The WellHealth Bankruptcy Case remains  
10 pending, and the bankruptcy stay has not been lifted for the State Court Case. On April 1, 2025, there  
11 is a status hearing in state court to update the court about the status in the bankruptcy.

12 **Current Receivership Assets**

13 The Receiver’s evaluation of the assets and liabilities of the CO-OP is ongoing, and adjusted  
14 periodically to accommodate newly authorized payments, receipts, and transfers. Below is an  
15 overview of some key asset matters thus far identified by the Receiver (other than those already  
16 mentioned herein):

17 1. The currently available, unrestricted cash assets of the CO-OP as of January 31, 2025,  
18 were approximately \$13,944,735. The majority of NHC’s currently available and liquid assets are  
19 held in bank deposits.

20 2. The financial information of NHC in this Status Report provides estimates. NHC’s  
21 financials may materially vary depending upon the estate’s receipt of future litigation recoveries.

22 3. The Receiver is including, as **Exhibit 2** attached hereto, a cash flow report for NHC  
23 for the period covering the inception of the receivership through January 31, 2025. This report reflects  
24 a summary of disbursements and collections made by NHC during this period.

25 ///

26 ///

27 ///

28 ///

**CONCLUSION**

The Receiver has submitted this report in compliance with the Receivership Court’s instructions for a status report on NHC. The Receiver requests that the Court approve this Status Report and the actions taken by the Receiver.

DATED this **28th day of February 2025**.

Respectfully submitted:

Scott Kipper, Commissioner of Insurance of the State of Nevada, in his 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

Respectfully submitted by:  
GREENBERG TRAURIG, LLP

*/s/ Donald L. Prunty*

MARK E. FERRARIO, ESQ.  
Nevada Bar No. 01625  
DONALD L. PRUNTY, ESQ.  
Nevada Bar No. 08230  
10845 Griffith Peak Drive  
Suite 600  
Las Vegas, Nevada 89135  
Emails: ferrariom@gtlaw.com  
pruntyd@gtlaw.com

*Counsel for Scott Kipper, Commissioner of Insurance, as the Permanent Receiver for Nevada Health CO-OP*

**Exhibits may be requested by contacting the Special Deputy Receiver at 512-478-6000**