

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE AMTRUST FINANCIAL
SERVICES, INC. APPRAISAL AND
STOCKHOLDER LITIGATION

Consolidated
C.A. No. 2018-0396-LWW

**ORDER AND FINAL JUDGMENT
REGARDING THE CONSOLIDATED STOCKHOLDER ACTION**

On this 22nd day of November, 2021, a hearing having been held before this Court to determine whether the terms and conditions of the Settlement, as reflected in the Stipulation and Agreement of Compromise, Settlement, and Release Regarding the Consolidated Stockholder Action (the “Settlement Stipulation”), including Exhibits thereto, which are incorporated therein by reference,¹ are fair, reasonable, and adequate for the settlement of all Released Claims; whether and in what amount to grant the Fee and Expense Award; whether this Order and Final Judgment Regarding the Consolidated Stockholder Action (the “Order and Final Judgment”) should be entered in the Consolidated Stockholder Action; and the Court having considered all matters submitted to it at the hearing and otherwise;

¹ Capitalized terms not defined in this Order and Final Judgment have the meaning set forth in the Settlement Stipulation (certain of which are repeated here for ease of reference only).

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of the Consolidated Stockholder Action, and all matters relating to the Settlement, as well as personal jurisdiction over the Parties and Class Members.

2. The dissemination of the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”) pursuant to and in the manner prescribed in the Scheduling Order Regarding the Consolidated Stockholder Action entered on September 3, 2021 (the “Scheduling Order”), which was mailed by first-class mail on September 17, 2021, combined with the posting of the Notice on the Administrator’s website, pursuant to and in the manner prescribed in the Scheduling Order, is hereby determined to be the best notice reasonably practicable under the circumstances, to constitute due and sufficient notice to all persons entitled to receive notice of the Settlement, and to have met the requirements of Court of Chancery Rule 23, due process, and applicable law. It is further determined that all Class Members, as well as their legal representatives, transferees, heirs, executors, successors, and assigns, are bound by this Order and Final Judgment.

3. The Court hereby finds, pursuant to Court of Chancery Rules 23(a), 23(b)(1) and (b)(2), as follows:

(a) That (i) the Class, as defined below, is so numerous that joinder of all members is impracticable; (ii) there are questions of law and fact common to the Class; (iii) the claims of Plaintiffs are typical of the claims of the Class; (iv) Plaintiffs and Class Counsel have fairly and adequately protected and represented the interests of the Class; (v) the prosecution of separate actions by individual Class Members would create a risk of inconsistent adjudications which would establish incompatible standards of conduct for Defendants; (vi) as a practical matter, the disposition of the Consolidated Stockholder Action would influence the disposition of any pending or future identical cases brought by other Class Members; and (vii) Defendants have allegedly acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole;

(b) That the requirements of Court of Chancery Rules 23(a), 23(b)(1) and (b)(2) have been satisfied;

(c) That the requirements of the Court of Chancery Rules and due process have been satisfied in connection with the Notice and dissemination of the Notice; and

(d) For purposes of settlement only, the Court finally certifies a non-opt-out Class consisting of any record holders and all beneficial owners of the common stock of AmTrust Financial Services, Inc. (“AmTrust”) as of the Closing whose shares of AmTrust common stock were exchanged for cash in connection with the Merger or who sought statutory appraisal in connection with the Merger, including any and all of their respective successors-in-interest, successors, predecessors-in-interest, predecessors, estates, heirs, assigns, and transferees (excluding: (i) Defendants and their immediate family members, affiliates, subsidiaries, legal representatives, heirs, estates, successors, or assigns; (ii) any entity in which any Defendant has had a direct or indirect controlling interest; (iii) AmTrust and its successors or assigns; and (iv) each member of the Icahn Group, as such term is defined in the Settlement and Support Agreement, dated June 6, 2018, entered into by and among the Icahn Group, AmTrust, and Evergreen Parent, L.P., and any entity in which any member of the Icahn Group has had a direct or indirect controlling interest).

4. The Court finds that Plaintiffs held AmTrust common stock, have standing to prosecute the Consolidated Stockholder Action, and are adequate representatives of the Class.

5. For purposes of settlement only, the Court finally appoints Plaintiffs as representatives of the Class and finally appoints Prickett, Jones & Elliott, P.A.,

Labaton Sucharow LLP, Grant & Eisenhofer P.A., Saxena White P.A., Kessler Topaz Meltzer & Check, LLP, Friedman Oster & Tejtel PLLC, Wolf Popper LLP, and Bernstein Litowitz Berger & Grossmann LLP as Class Counsel.

6. The Settlement is found to be fair, reasonable, and adequate, and in the best interests of the Class, and is hereby approved in all respects pursuant to Court of Chancery Rule 23.

7. The Parties are hereby authorized and directed to consummate the Settlement in accordance with the terms and provisions of the Settlement Stipulation, and the Register in Chancery is directed to enter and docket this Order and Final Judgment.

8. The releases contained in the Settlement Stipulation, together with the definitions contained in the Settlement Stipulation related to the Released Parties and the Released Claims, are expressly incorporated herein in all respects and shall be effective as of the Effective Date.

9. The Consolidated Stockholder Action is hereby dismissed with prejudice as to Plaintiffs and all other Class Members. The Parties are to bear their own costs, except as otherwise provided in this Order and Final Judgment, the Scheduling Order, and the Settlement Stipulation.

10. Upon the Effective Date, (a) Plaintiffs and all Class Members, on behalf of themselves, and any and all of their respective predecessors, successors, and

assigns, shall release and forever discharge all Plaintiff Released Claims as against all Defendant Released Parties, and shall be deemed to have covenanted not to sue any Defendant Released Party with respect to any Plaintiff Released Claim; and (b) Defendants, on behalf of themselves, and any and all of their respective predecessors, successors, and assigns, shall release and forever discharge all Defendant Released Claims as against all Plaintiff Released Parties, and shall be deemed to have covenanted not to sue any Plaintiff Released Party with respect to any Defendant Released Claim.

- a. “Defendant Released Claims” means any and all claims for relief, damages, compensations, demands, suits, actions, injuries, losses, costs, expenses, and/or causes of action of any kind or character, including Unknown Claims, whether at law or in equity, regardless of legal theory, whether foreseen or unforeseen, contingent or actual, liquidated or unliquidated, known or unknown, whether based on state, local, foreign, federal, statutory, regulatory, common, or other law or rule, which any Defendant ever had, now has, or may have against any of the Plaintiff Released Parties: (i) arising out of and/or relating in any way to the institution or prosecution of, participation in, and/or settlement of the Consolidated Stockholder Action; or (ii) that otherwise in any way relate to the Merger or the subject matter of the

Consolidated Stockholder Action. For the avoidance of doubt, the Defendant Released Claims shall not include the right to enforce the Settlement Stipulation or the Settlement.

- b. “Defendant Released Parties” means Defendants and all other Persons named as defendants in the Consolidated Stockholder Action or its constituent actions (including, for the avoidance of doubt, Rivera, the Stone Point Defendants, and the Evergreen Defendants), AmTrust, and each of their respective past or present affiliates, parents, and subsidiaries, as well as each of their respective past or present family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, control persons, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, affiliates, parents, subsidiaries, divisions, associated entities, stockholders, principals, officers, managers, directors, managing directors, members, managing members, managing agents, insurers, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, financial or investment advisors, advisors, consultants, investment bankers, entities providing any fairness opinion, underwriters, brokers, dealers, lenders,

commercial bankers, attorneys, personal or legal representatives, accountants, insurers, co-insurers, reinsurers, and associates.

- c. “Plaintiff Released Claims” means any and all claims for relief, damages, compensation, demands, suits, actions, injuries, losses, costs, expenses, and/or causes of action of any kind or character, including Unknown Claims, whether at law or in equity, regardless of legal theory, whether foreseen or unforeseen, contingent or actual, liquidated or unliquidated, known or unknown, whether class or individual in nature, whether based on state, local, foreign, federal (including but not limited to any state securities laws), statutory, regulatory, common or other law or rule (including, but not limited to, any claims that could be asserted by any Class Member derivatively on behalf of AmTrust), whether asserted in state or federal court or any other tribunal, forum, or proceedings, which: (i) any Plaintiff or any Class Member ever had, now has, or may have against any of the Defendant Released Parties by virtue of having owned AmTrust common stock, and (ii) are based upon, arise out of, involve, or relate to any of the facts, allegations, conduct, actions, inaction, breaches of fiduciary duty or other obligations, statements, misrepresentations, omissions, transactions, events or occurrences that were alleged, asserted, or claimed in the

complaints filed in the Consolidated Stockholder Action, or that otherwise relate to the Merger, the sales process leading to the Merger, the Initial Merger Agreement, the Amended Merger Agreement, the Merger Consideration, any purported relationship of any nature between the Merger and the Derivative Actions, and any disclosure, failure to disclose, statement or securities filing by any Person relating to the Merger (including, but not limited to, the Proxy); provided, however, that the Plaintiff Released Claims shall not include the right to enforce the Settlement Stipulation or the Settlement. For the avoidance of doubt, the Settlement shall not release any claim, relief, damages, compensation, demands, suits, actions, injuries, losses, costs, expenses, and/or causes of action of any kind or character asserted in the consolidated putative class action styled *In re AmTrust Financial Services, Inc. Securities Litigation*, No. 1:17-cv-01545-LAK (S.D.N.Y.) or the putative class action styled *Martínek v. AmTrust Financial Services, Inc.*, 1:19-cv-08030-KPF (S.D.N.Y.).

- d. Plaintiff Released Parties” means Cambridge, Pompano, Lauderhill, West Palm Beach, Arca, and each of their respective past or present affiliates, parents, and subsidiaries, as well as each of their respective past or present family members, spouses, heirs, trusts, trustees,

executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, control persons, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, affiliates, parents, subsidiaries, divisions, associated entities, stockholders, principals, officers, managers, directors, managing directors, members, managing members, managing agents, insurers, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, financial or investment advisors, advisors, consultants, investment bankers, entities providing any fairness opinion, underwriters, brokers, dealers, lenders, commercial bankers, attorneys, personal or legal representatives, accountants, insurers, co-insurers, reinsurers, and associates.

- e. “Unknown Claims” means any Released Claim that any Party or any Class Member does not know or suspect exists in his, her or its favor at the time of the release of the Released Claims as against the Released Parties, including without limitation those which, if known, might have affected the decision to enter into the Settlement or to object or not to object to the Settlement. With respect to any of the Released Claims, the Parties stipulate and agree that, upon the occurrence of the Effective

Date, the Parties shall expressly and, by operation of this Order and Final Judgment, each Class Member shall be deemed to have, and shall have, expressly waived, relinquished and released any and all provisions, rights and benefits conferred by or under Cal. Civ. Code § 1542 or any law of the United States or any state of the United States or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of the Parties, and by operation of law Class Members, to completely, fully, finally, and forever extinguish any and all Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent

discovery of additional or different facts. The Parties acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of “Released Claims” was separately bargained for and was a material element of the Settlement and was relied upon by each and all of Defendants in entering into the Settlement.

11. Class Counsel are hereby awarded a Fee and Expense Award in the amount of \$9,600,000 plus \$292,271.14 of expenses, which amount the Court finds to be fair and reasonable. The Fee and Expense Award shall be paid pursuant to the provisions of the Settlement Stipulation and shall be paid solely out of the Settlement Fund. Neither Plaintiffs, nor Class Counsel, shall make, or assist any other counsel in making, any application for an award of fees or expenses in any other jurisdiction. For the avoidance of doubt, Defendants shall have no responsibility for, and no liability with respect to, Plaintiffs’ attorneys’ fees or any expenses beyond payment of the Settlement Amount.

12. The binding effect of this Order and Final Judgment and the obligations of Plaintiffs, Class Members, and the Parties under the Settlement shall not be conditioned upon or subject to the resolution of any appeal from this Order and Final Judgment that relates solely to the issue of Class Counsel’s Fee and Expense Award.

13. All Class Members shall be and are deemed bound by the Settlement Stipulation and this Order and Final Judgment. This Order and Final Judgment, including the release of all Released Claims against all Released Parties, shall have res judicata, collateral estoppel, and all other preclusive effect in all pending and future lawsuits, arbitrations, or other proceedings maintained by, or on behalf of, Plaintiffs or any Class Members, as well as their respective heirs, executors, administrators, estates, predecessors-in-interest, predecessors, successors-in-interest, successors, and assigns and anyone claiming through or on behalf of any of them.

14. Neither the Settlement, the Settlement Stipulation, nor this Order and Final Judgment shall constitute any evidence, or an admission or concession by Plaintiffs or Defendants or their counsel, any Class Member, or any of the Released Parties, of any fault, liability, or wrongdoing whatsoever, as to any facts or claims alleged or asserted in the Consolidated Stockholder Action, or in any other actions or proceedings, or as to the validity or merit of any of the claims or defenses alleged or asserted in the Consolidated Stockholder Action or in any other action or proceeding. Nor shall the Settlement Stipulation or this Order and Final Judgment be considered a finding or evidence of any damages or injury to Plaintiffs or any Class Member. Neither this Order and Final Judgment, nor any of the terms and provisions of the Settlement Stipulation, nor any of the negotiations or proceedings

in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statements in connection therewith: (a) shall be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or a finding of any liability, fault, wrongdoing, injury, or damages, or of any wrongful conduct, acts or omissions on the part of any Defendant or any of the Released Parties, or of any infirmity of any defense, or of any damage to Plaintiffs or any other Class Member; (b) shall otherwise be used to create or give rise to any inference or presumption against any Defendant or any of the Released Parties concerning any fact or any purported liability, fault, or wrongdoing of Defendants or any of the Released Parties or any injury or damages to any person or entity; or (c) shall otherwise be admissible in any proceeding of any nature, for any purpose whatsoever; provided, however, that the Settlement Stipulation and this Order and Final Judgment may be introduced in any proceeding subject to Rule 408 of the Delaware Uniform Rules of Evidence, and any and all other state and federal law corollaries thereto, whether in the Court or otherwise, as may be necessary to argue and establish that the Settlement and Order and Final Judgment have res judicata, collateral estoppel, or other issue or claim preclusion effect or to otherwise consummate or enforce the Settlement Stipulation, the Settlement, and this Order and Final Judgment or to secure any insurance rights

or proceeds of any Defendants or any of the Released Parties or as otherwise required by law. The fact of entering into the Settlement Stipulation, and any discussions, negotiations and proceedings related thereto, the Settlement itself, and this Order and Final Judgment shall not be construed as, offered into evidence as, or deemed to be evidence of, the value of AmTrust's common stock as of the date of the Merger.

15. Without further order of this Court, the Parties may agree in writing to:

- (a) amendments, modifications, and expansions of the Settlement Stipulation and/or any of the Exhibits attached thereto to effectuate the Settlement that are not materially inconsistent with this Order and Final Judgment and that do not materially limit the rights of Class Members under the Settlement Stipulation; and
- (b) reasonable extensions of time to carry out any of the provisions of the Settlement Stipulation or this Order and Final Judgment.

16. Without affecting the finality of this Order and Final Judgment in any way, this Court reserves jurisdiction over all matters relating to the administration and consummation of the Settlement.

/s/ Lori W. Will
Vice Chancellor Lori W. Will

Dated: November 22, 2021