



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

VERO BEACH POLICE OFFICERS'
RETIREMENT FUND, derivatively on
behalf of nominal defendant TD
AMERITRADE HOLDING
CORPORATION,

Plaintiff,

v.

LARRY BETTINO, V. ANN HAILEY, TIM
HOCKEY, BRIAN LEVITT, KAREN
MAIDMENT, BHARAT MASRANI, IRENE
MILLER, MARK MITCHELL, JOSEPH
MOGLIA, WILBUR PREZZANO, TODD
RICKETTS, ALLAN TESSLER and THE
TORONTO-DOMINION BANK,

Defendants,

and

TD AMERITRADE HOLDING
CORPORATION, a Delaware corporation,

Nominal Defendant.

C.A. No. 2017-0264-JRS

STIPULATION OF SETTLEMENT

This Stipulation of Compromise and Settlement (“Stipulation”) is made and entered into as of August 9, 2018, and is intended to fully, finally, and forever resolve, discharge, and settle the Released Claims as set forth and defined in paragraph 1.16 below. The Parties to this Stipulation are: (i) Vero Beach Police

Officers' Retirement Fund ("Plaintiff"), derivatively on behalf of TD Ameritrade Holding Corporation ("Ameritrade" or the "Company"); (ii) defendants Larry Bettino, V. Ann Hailey, Tim Hockey, Brian Levitt, Karen Maidment, Bharat Masrani, Irene Miller, Mark Mitchell, Joseph Moglia, Wilbur Prezzano, Todd Ricketts, Allan Tessler, as members of Ameritrade's Board of Directors (collectively, the "Individual Defendants"); (iii) defendant The Toronto-Dominion Bank ("TD Bank"); and (iv) nominal defendant Ameritrade (together with the Individual Defendants and TD Bank, "Defendants") (collectively with Plaintiff, the "Parties"¹). This Stipulation sets forth the terms and conditions of the settlement of the above-captioned action (the "Action") reached by the Parties (the "Settlement"), subject to the approval of the Court of Chancery of the State of Delaware.

Summary of the Proceedings

A. This Action arises from the acquisition of Scottrade Financial Services, Inc. ("Scottrade Financial") by Ameritrade.

¹ For purposes of this Stipulation, the term "Parties" includes, as applicable with respect to each Party, that Party's officers, directors, employees, predecessors, successors, parents, subsidiaries, divisions, affiliates, insurers, attorneys, advisors, accountants, or other representatives or anyone acting or purporting to act on its behalf.

B. In the summer of 2016, Scottrade Financial began exploring a potential sale of its business. At the time, TD Bank owned approximately 42% of Ameritrade's outstanding common stock. In August 2016, Ameritrade submitted a bid to purchase Scottrade Financial whereby (i) TD Bank would acquire Scottrade Bank, a wholly-owned subsidiary of Scottrade Financial; and (ii) Ameritrade would acquire the remainder of Scottrade Financial.

C. Plaintiff alleged that during the period relevant to the claims asserted in this Action, TD Bank was Ameritrade's controlling stockholder. Plaintiff further alleged that TD Bank's involvement in the prospective acquisition created a conflict of interest because TD Bank was incentivized to reduce the amount that it paid to purchase Scottrade Bank, which would necessarily increase the amount Ameritrade would pay to acquire the remainder of Scottrade Financial.

D. On October 24, 2016, Ameritrade announced a transaction pursuant to which TD Bank would first purchase Scottrade Bank from Scottrade Financial for around \$1.3 billion in cash and immediately thereafter, Ameritrade would purchase the remainder of Scottrade Financial for \$2.7 billion (collectively, the "Scottrade Transactions").

E. On February 2, 2017, Plaintiff served a demand on Ameritrade pursuant to 8 *Del. C.* § 220 to inspect certain books and records in order to

investigate potential breaches of fiduciary duty in connection with the Scottrade Transactions (the “220 Demand”). On February 28, 2017, the Company produced documents in response to Plaintiff’s 220 Demand.

F. On April 6, 2017, Plaintiff filed a Verified Stockholder Derivative Complaint (the “Complaint”) in this Court. The Complaint alleged, *inter alia*, (i) that TD Bank was the controlling stockholder of Ameritrade; and (ii) that the Scottrade Transactions were not entirely fair to Ameritrade. The Complaint asserted derivative claims, brought on behalf of the Company, for (i) breach of fiduciary duty against TD Bank in its capacity as a controlling stockholder of Ameritrade; and (ii) breaches of fiduciary duty against the Individual Defendants in connection with their approval of the Scottrade Transactions.

G. The Scottrade Transactions closed on September 18, 2017.

H. On November 2, 2017, Ameritrade, the Individual Defendants and TD Bank moved to dismiss the Complaint. Ameritrade and the Individual Defendants argued, *inter alia*, that (i) the Complaint did not adequately plead demand futility; (ii) the Complaint did not plead facts supporting a claim that the Scottrade Transactions were economically unfair and (iii) the Complaint failed to state a non-exculpated claim for breach of fiduciary duty. TD Bank argued, *inter alia*, that (i) the Complaint did not adequately plead demand futility and (ii) the Complaint

failed to state a claim for breach of fiduciary duty because the Complaint did not adequately allege that TD Bank is a controlling stockholder of Ameritrade, that TD Bank engaged in a conflicted transaction, and/or that Ameritrade paid an unfair price for Scottrade Financial.

I. On December 18, 2017, Plaintiff filed a Verified Amended Stockholder Derivative Complaint (the “Amended Complaint”). The Amended Complaint asserted derivative claims, brought on behalf of the Company, (i) against TD Bank for breaches of fiduciary duties in its capacity as a controlling stockholder of Ameritrade, for aiding and abetting breaches of fiduciary duty, and for unjust enrichment; and (ii) against the Individual Defendants for breaches of fiduciary duty in connection with the Scottrade Transactions.

J. On February 16, 2018, Ameritrade, the Individual Defendants and TD Bank filed motions to dismiss the Amended Complaint (the “Motions to Dismiss”). Ameritrade and the Individual Defendants argued, *inter alia*, that (i) the Amended Complaint did not adequately plead demand futility; (ii) the Amended Complaint did not plead facts supporting a claim that the Scottrade Transactions were economically unfair and (iii) the Amended Complaint failed to state a non-exculpated claim for breach of fiduciary duty. TD Bank argued, *inter alia*, that (i) the Amended Complaint did not adequately plead demand futility; (ii) the

Amended Complaint failed to state a claim for breach of fiduciary duty because the Complaint did not adequately allege that TD Bank is a controlling stockholder of Ameritrade, that TD Bank engaged in a conflicted transaction, and/or that Ameritrade paid an unfair price for Scottrade Financial; (iii) the Amended Complaint failed to state a claim for aiding and abetting breach of fiduciary duty and (iv) the Amended Complaint failed to state a claim for unjust enrichment.

K. On April 9, 2018, the Parties filed a stipulation and proposed order that, *inter alia*, adjourned the briefing schedule on the Motions to Dismiss pending completion of a private mediation that was scheduled for May 29, 2018. The Court entered the order on April 9, 2018.

L. On May 29, 2018, the Parties attended a mediation session with Michael Young (the “Mediator”). In advance of the mediation session, the Parties provided to the Mediator—and exchanged among themselves—mediation submissions.

M. On June 15, 2018, the Parties notified the Court that the Parties had not reached a settlement of the Action and that a subsequent mediation session was scheduled for July 11, 2018. The Parties simultaneously filed a stipulation and proposed order concerning completion of briefing of the Motions to Dismiss.

N. On July 11, 2018, the Parties attended the subsequent mediation session.

O. On July 16, 2018, the Parties wrote a letter to the Court (i) requesting that the Court adjourn the briefing schedule on the Motions to Dismiss in light of the progress that was made during the Parties' settlement discussions; and (ii) informing the Court that the Parties would contact the Court on or before July 26, 2018, to provide a further update and (if necessary) a proposed updated schedule for completion of briefing on Defendants' Motions to Dismiss. On July 19, 2018, the Court granted the Parties' request to adjourn the briefing schedule on the Motions to Dismiss.

P. On July 20, 2018, the Parties reached an agreement in principle to settle the Action.

Plaintiff's Claims and Defendants' Denials of Wrongdoing and Liability

Q. Plaintiff maintains that the claims asserted in the Action have merit, but also believes that the Settlement set forth below provides substantial and immediate benefits for Ameritrade. In addition to these substantial benefits, Plaintiff and its counsel have considered: (i) the attendant risks of continued litigation and the uncertainty of the outcome of the Action; (ii) the probability of success on the merits; (iii) possible defenses to the claims asserted in the Action;

(iv) the desirability of permitting the Settlement to be consummated according to its terms; (v) the expense and length of continued proceedings necessary to prosecute the Action through trial and appeal; (vi) the likelihood of monetary recovery to the extent Plaintiff was able to secure a monetary judgment against one or more of the Defendants; and (vii) the conclusion by Plaintiff and Plaintiff's Counsel (defined below) that the terms and conditions of the Settlement are fair, reasonable, and adequate, and that it is in the best interests of Ameritrade to settle the Action on the terms set forth herein.

R. Plaintiff and Plaintiff's Counsel have determined that the proposed Settlement is fair, reasonable, adequate, and in the best interests of Ameritrade. The Settlement provides substantial immediate benefits to Ameritrade without the risk that continued litigation could result in obtaining similar or lesser relief for Ameritrade after continued extensive and expensive litigation, including trial and appeal.

S. The Defendants maintain that their conduct was at all times proper and in compliance with applicable law and they have denied, and continue to deny, that they have committed or intended to commit any breaches of their obligations or violations of law arising out of any of the conduct, statements, acts, or omissions alleged in the Action or otherwise. Defendants further deny that they breached any

fiduciary or other legal duties owed to Ameritrade. TD Bank further denies that (i) it was Ameritrade's controlling stockholder during the period relevant to this Action, such that it owed Ameritrade any fiduciary duties in any such capacity in connection with the Scottrade Transactions; (ii) it aided and abetted any breaches of fiduciary duty, and (iii) it was unjustly enriched in connection with any of the conduct alleged in the Action. Defendants also deny that Ameritrade was harmed by any conduct of TD Bank and/or the Individual Defendants alleged in the Action. Defendants assert that, at all relevant times, they acted in good faith and in a manner consistent with any fiduciary and/or legal duties owed to Ameritrade in connection with the Scottrade Transactions.

T. Defendants, however, recognize the uncertainty and the risk inherent in any litigation, and the difficulties and substantial burdens, expense, and time that may be necessary to defend this proceeding. Defendants wish to eliminate the uncertainty, risk, burden and expense of litigation, and to permit the operation of Ameritrade without further distraction to and diversion of its directors and executives with respect to the Action. Defendants thus acknowledge that this Settlement provides a benefit to Ameritrade. Defendants have therefore decided to settle the Action on the terms and conditions set forth in this Stipulation, without in any way acknowledging any wrongdoing, fault, liability, or damages.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, BY AND AMONG THE PARTIES TO THIS STIPULATION, subject to the approval of the Court pursuant to Court of Chancery Rule 23.1, that all Released Claims shall be and hereby are compromised, settled, discontinued, and dismissed with prejudice as to all Released Persons upon the following terms and conditions:

I. DEFINITIONS

1.1. “Court” means the Court of Chancery of the State of Delaware.

1.2. “Current Ameritrade Stockholder” or “Current Ameritrade Stockholders” means any Person or Persons who are record or beneficial owners of Ameritrade common stock as of the date of this Stipulation, excluding (i) TD Bank, the Individual Defendants, and the officers and directors of Ameritrade; (ii) members of the immediate families of any individual covered by subsection (i) of this definition; (iii) the legal representatives, heirs, successors, or assigns of any Person covered by subsection (i) and/or (ii) of this definition; and (iv) any entity in which the Individual Defendants have a controlling interest.

1.3. “Defendants’ Counsel” means Potter Anderson & Corroon LLP; Wachtell, Lipton, Rosen & Katz; Richards, Layton & Finger, P.A.; and Simpson Thacher & Bartlett LLP.

1.4. “Defendant Released Claims” means and includes any and all claims for relief or causes of action, debts, demands, rights, or liabilities whatsoever, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, against any Defendant Released Person(s), that (i) were asserted in the Action, or (ii) otherwise arise out of or relate to the Scottrade Transactions. Defendant Released Claims do not include any claims if brought directly (rather than derivatively by a stockholder) by Ameritrade against anyone; however, the Defendant Released Claims include all claims of, arising out of, or relating to alleged breaches of fiduciary duty, aiding and abetting, and unjust enrichment against TD Bank, Ameritrade and/or the Individual Defendants arising out of or relating to the Scottrade Transactions, regardless of whether such claims are asserted directly or derivatively by a Current Ameritrade Stockholder or directly by Ameritrade.

1.5. “Defendant Released Persons” means Defendants and their respective past, present, or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing

agents, 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.

1.6. “Effective Date” means the date that the Judgment, which approves in all material respects the releases provided for in this Stipulation and dismisses the Action with prejudice, becomes Final.

1.7. “Final” means no longer subject to review upon appeal or review in connection with a Petition for Writ of Certiorari or similar writ, whether by exhaustion of any possible appeal, lapse of time, or otherwise.

1.8. “Insurer” means any and all of Ameritrade’s or the Individual Defendants’ D&O insurance carriers, including, but not limited to, those D&O insurance carriers who may contribute to the Settlement Payment.

1.9. “Judgment” means the Order and Final Judgment entered by the Court, substantially in the form annexed hereto as Exhibit C.

1.10. “Notice” means the Notice of Pendency of Derivative Action, Proposed Settlement of Derivative Action, Settlement Hearings, and Right to Appear, substantially in the form annexed hereto as Exhibit B.

1.11. “Person” means a natural person, individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, joint stock company, estate, legal representative, trust, unincorporated association, government, or any political subdivision or agency thereof, any business or legal entity, and any spouse, heir, legatee, executor, administrator, predecessor, successor, representative, or assign of any of the foregoing.

1.12. “Plaintiff’s Counsel” means Grant & Eisenhofer, P.A. and Friedman Oster & Tejtel PLLC.

1.13. “Plaintiff Released Claims” means and includes any and all claims for relief or causes of action, debts, demands, rights, or liabilities whatsoever, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, against any Plaintiff Released Persons (i) arising out of and/or relating in any way to Plaintiff’s investigation of, prosecution of, participation in, and/or settlement of the Action and/or Plaintiff’s conduct as

derivative plaintiff in the Action, or (ii) that otherwise in any way relate to the subject matter of the Action.

1.14. “Plaintiff Released Persons” means Vero Beach Police Officers’ Retirement Fund, and its past, present, or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing agents, predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, financial or investment advisors, advisors, consultants, investment bankers, underwriters, brokers, dealers, lenders, commercial bankers, attorneys, personal or legal representatives, accountants, insurers, co-insurers, reinsurers, and associates.

1.15. “Released Persons” means Plaintiff Released Persons and Defendant Released Persons, collectively or individually as the context requires.

1.16. “Released Claims” means Plaintiff Released Claims and Defendant Released Claims, collectively or individually as the context requires.

1.17. “Scheduling Order” means an order substantially in the form annexed hereto as Exhibit A that schedules a hearing on the Settlement and approves the Notice and the method of giving notice.

1.18. “Settlement Hearing” means the hearing (or hearings) at which the Court will review and assess the adequacy, fairness, and reasonableness of the Settlement, and the appropriateness and amount of the award of attorneys’ fees and expenses requested by Plaintiff’s Counsel (as set forth in Section 2.1 below).

II. TERMS OF SETTLEMENT AND RELEASES

A. SETTLEMENT CONSIDERATION

2.1. At least ten (10) days before the date set by the Court for the hearing on whether to approve the Settlement (the “Settlement Hearing”), TD Bank, the Individual Defendants, their representative(s) and/or their insurers shall pay or cause to be paid into an escrow account controlled by Plaintiff’s Counsel (the “Pre-Hearing Escrow Account”), the amount of seventeen-million nine-hundred and fifty-thousand dollars (\$17,950,000) (the “Settlement Payment”); provided, however, that in no event shall TD Bank, the Individual Defendants, their representative(s) and/or their insurers be required to make the Settlement Payment to the Pre-Hearing Escrow Account any earlier than ten (10) business days after TD Bank, the Individual Defendants, their representative(s) or their insurers

receive the necessary payment information, including wire transfer instructions and W-9 documentation, for the Pre-Hearing Escrow Account.

2.2. On the Effective Date, the Settlement Payment, minus the amount of any Fee Award (defined below) (the “Net Settlement Amount”), will be paid from the Pre-Hearing Escrow Account to the Company. By no later than five (5) business days prior to the Effective Date, the Company will provide wire instructions to Plaintiff’s Counsel for payment to the Company of the Net Settlement Amount from the Pre-Hearing Escrow Account. If the Settlement is reversed or vacated on appeal by a final non-appealable order, the Net Settlement Amount (along with any portion of the Fee Award returned to the Pre-Hearing Escrow Account pursuant to section 3.3 below) will be returned to the Pre-Hearing Escrow Account.

2.3. Notwithstanding any provision of this Stipulation to the contrary, under no circumstances shall any Individual Defendant be personally required to pay any portion of the Settlement Payment, Fee Award (as defined below) or any other payments contemplated by this Stipulation; provided, however, that this provision does not relieve any Insurer of its obligation to make any payment on any Individual Defendant’s behalf.

B. RELEASES

2.4. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of the Action and the Released Claims.

2.5. Upon the Effective Date, Ameritrade, Plaintiff (derivatively on behalf of Ameritrade), Plaintiff's Counsel, and each and every Current Ameritrade Stockholder shall have, and by operation of the Judgment shall be deemed to have, fully, finally, and forever released, relinquished and discharged the Defendant Released Claims against the Defendant Released Persons. Each and every Current Ameritrade Stockholder will be bound by this release of the Released Claims against the Released Persons. Nothing contained herein shall be construed to release any claims against the Released Persons arising from conduct occurring after August 9, 2018. Furthermore, nothing herein shall be construed to release any claims directed against the Released Persons arising from conduct that is unrelated to the subject matter of the Action.

2.6. Notwithstanding the releases described above, nothing herein is intended to or shall affect any rights or release any claim with respect to (i) past or future indemnification or advancement or payment of past or future legal fees and defense costs arising under and pursuant to any Released Person's respective advancement or indemnification agreements with Ameritrade, Ameritrade's certificate of incorporation or by-laws, any insurance policy covering Ameritrade

or its current or former officers and directors, applicable law, equity or other contract or applicable insurance; (ii) the rights of any Defendant or any Insurer in connection with the allocation of the Settlement Payment as between TD Bank and any Insurer; or (iii) any past or future claims between any Defendant and any Insurer.

2.7. Upon the Effective Date, TD Bank, the Individual Defendants and Ameritrade shall have, and by operation of the Judgment and this Stipulation shall be deemed to have, fully, finally, and forever released, relinquished, and discharged the Plaintiff Released Claims against the Plaintiff Released Persons. Nothing contained herein shall be construed to release any claims against the Plaintiff Released Persons arising from conduct occurring after August 9, 2018. Furthermore, nothing herein shall be construed to release any claims directed against the Plaintiff Released Persons arising from conduct unrelated to the claims asserted in the Action or otherwise unrelated to the subject matter of the Action.

2.8. Plaintiff, in its individual capacity, and derivatively on behalf of Ameritrade, acknowledges that it may discover facts in addition to or different from those now known or believed to be true with respect to the subject matter of the Defendant Released Claims, but that it is its intention to fully, finally, and forever settle and release with prejudice the Defendant Released Claims. Plaintiff

and Plaintiff's Counsel shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law).

California Civil Code § 1542 provides that:

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

2.9. TD Bank, the Individual Defendants and Ameritrade acknowledge that they may discover facts in addition to or different from those now known or believed to be true with respect to the subject matter of the Plaintiff Released Claims, but that it is their intention to fully, finally, and forever settle and release with prejudice the Plaintiff Released Claims. TD Bank, the Individual Defendants, Ameritrade, and their counsel shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law).

2.10. Nothing herein shall in any way impair or restrict the rights of the Parties to enforce the terms of the Settlement pursuant to this Stipulation.

III. ATTORNEYS' FEES AND EXPENSES

3.1. Plaintiff's Counsel intend to petition the Court for an award of attorneys' fees and expenses, based on the benefits provided to the Company from the Settlement and the prosecution of the Action, to be paid from the Settlement Payment, and from no other source, in an aggregate amount not to exceed 20% of the Settlement Payment. Defendants will not oppose any application for an award of attorneys' fees and expenses that does not exceed three million five hundred ninety thousand dollars (\$3,590,000).

3.2. Plaintiff's Counsel's attorneys' fees and expenses that are awarded by the Court (the "Fee Award") will be paid to Plaintiff's Counsel from the Pre-Hearing Escrow Account. The Fee Award shall be paid to Plaintiff's Counsel within three (3) business days of the date that the Court grants the Fee Award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof.

3.3. If, after payment of the Fee Award, the Fee Award is reversed, vacated, or reduced by final non-appealable order, or the Settlement is terminated in accordance with the terms of this Stipulation, Plaintiff's Counsel shall, within three (3) business days after receiving from Defendants' Counsel or from a court of appropriate jurisdiction notice of the termination of the Settlement or notice of any

reduction of the Fee Award by final non-appealable order, make appropriate refunds or repayments to the Pre-Hearing Escrow Account.

3.4. Court approval of this Stipulation is not in any way conditioned on Court approval of Plaintiff's Counsel's fee and expense application. Disallowance by the Court of any application for fees and expenses, or any portion thereof, any appeal from any order relating thereto, or any modification or reversal on appeal of any such order, shall not operate to terminate or cancel this Stipulation or affect its other terms, including the releases set forth herein, or to affect or delay the finality of the Judgment approving this Stipulation and the Settlement.

3.5. Payment of the amount or amounts the Court awards to Plaintiff's Counsel pursuant to the Fee Award shall constitute full satisfaction of any obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, expenses, or costs incurred by any attorney on behalf of Plaintiff with respect to the claims asserted in the Action against Defendants, and shall relieve Defendants of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of Plaintiff.

IV. SCHEDULING ORDER AND SETTLEMENT HEARING

4.1. No later than two (2) business days after execution of this Stipulation, the Parties shall jointly submit this Stipulation together with its related documents to the Court, and shall apply to the Court for entry of the Scheduling Order, in the form annexed hereto as Exhibit A.

4.2. No later than sixty (60) days prior to the date the Court sets for the Settlement Hearing, Ameritrade shall cause the Notice, substantially in the form annexed hereto as Exhibit B, to be disseminated to stockholders by the same methods Ameritrade uses to disseminate its annual meeting proxy statement in the ordinary course; provided, however, that if the date the Court sets for the Settlement Hearing is less than sixty (60) days from the date of the entry of the Scheduling Order, the Notice shall be disseminated as soon as practicable. The cost of the Notice, as well as any out-of-pocket costs necessary to implement the settlement, shall be paid or reimbursed out of the Settlement Payment. For the avoidance of doubt, in no event shall Plaintiff, any other Current Ameritrade Stockholder, or their attorneys be responsible for any portion of the costs associated with disseminating the Notice.

4.3. At least fifteen (15) business days prior to the Settlement Hearing, an affidavit attesting to compliance with the notice provisions set forth in the Scheduling Order shall be filed with the Court by Ameritrade.

4.4. The Parties and their attorneys agree to use their individual and collective best efforts to obtain Court approval of this Stipulation and the Settlement. The Parties and their attorneys further agree to use their individual and collective best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, this Stipulation, the Settlement provided for hereunder and the dismissal of the Action.

V. STANDSTILL AGREEMENT

5.1. Pending Court approval of this Stipulation, the Parties agree to stay any and all proceedings in the Action other than those incident to this Stipulation.

5.2. Pending final determination of whether this Stipulation should be approved, the Parties agree not to institute, commence, prosecute, continue, or in any way participate in, whether directly or indirectly, representatively, individually, derivatively on behalf of Ameritrade, or in any other capacity, any action or other proceeding asserting any Released Claims against any Released Persons.

5.3. Notwithstanding Section 5.2, nothing herein shall in any way impair or restrict the rights or obligations of any Party to defend this Stipulation or to

otherwise respond in the event any Person objects to this Stipulation, the Judgment to be entered, and/or the fee and expense application.

5.4. In the event this Stipulation does not become Final or no Effective Date occurs, for any reason, the Parties will return to the positions they held prior to the execution of this Stipulation, and they will retain all their rights to pursue claims and defenses without prejudice, and all obligations under this Stipulation will become null and void. The Parties further agree that the Settlement Payment (including any Fee Award already paid to Plaintiff's Counsel) shall be refunded or repaid to the Person or Persons which made such payments; provided, however, that an amount sufficient to cover the cost of Notice and any out-of-pocket costs related thereto shall be paid or refunded to Ameritrade.

VI. DISMISSAL OF ACTION

6.1. If the Court approves this Stipulation, the Parties shall promptly request the Court to enter the Judgment, substantially in the form annexed hereto as Exhibit C. In the event that the Judgment is not entered by the Court upon the Parties' request, Section 5.4 is applicable.

VII. MISCELLANEOUS PROVISIONS

7.1. This Stipulation reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither this Stipulation

nor the releases given herein, nor any consideration, nor any actions taken to carry out this Stipulation are intended to be, nor may they be deemed or construed to be, an admission or concession of liability (or lack thereof) or of the validity of any claim, defense, or of any point of fact or law on the part of any Party hereto regarding those facts that have been, might have been, or might be alleged in the Action or in any other proceeding. The Released Persons may file this Stipulation and/or the Judgment in any action that has been or may be brought against them in order to support a claim or defense of the Released Persons based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

7.2. This Stipulation shall be deemed to have been mutually prepared by the Parties hereto and shall not be construed against any of them by reason of authorship.

7.3. This Stipulation may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same document. Any signature to this Stipulation by means of facsimile or .pdf shall be treated in all manner and respects as an original signature and shall be

considered to have the same binding legal effect as if it were the original signed version thereof.

7.4. All Persons executing this Stipulation thereby represent that they have been authorized and empowered to do so.

7.5. Plaintiff and Plaintiff's Counsel represent and warrant that none of the claims referred to in this Stipulation or that could have been alleged in the Action have been assigned, encumbered, or in any manner transferred in whole or in part. Plaintiff and Plaintiff's Counsel further represent and warrant that Plaintiff has held stock in Ameritrade since the time of the conduct complained of in the Action, continues to hold stock in the Company and otherwise has standing to prosecute the Action, and is an adequate representative of Current Ameritrade Stockholders.

7.6. This Stipulation embodies and represents the full agreement of the Parties and supersedes any and all prior agreements and understandings relating to the subject matter hereof between or among any of the Parties hereto. This Stipulation shall not be modified or amended, nor shall any provision of this Stipulation be deemed waived, unless such modification, amendment, or waiver is in writing and executed by or on behalf of the Parties. The waiver by any Party of any provision or breach of this Stipulation shall not be deemed a waiver of any other provision or breach of this Stipulation.

7.7. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

7.8. The construction and interpretation of this Stipulation shall be governed by and construed in accordance with the laws of the State of Delaware and without regard to the laws that might otherwise govern under principles of conflicts of law applicable hereto.

7.9. All Parties agree to submit to the jurisdiction of the Court for the purposes of enforcing this Stipulation and the Judgment.

7.10. Without further order of the Court, the Parties hereto may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

7.11. The following exhibits are annexed hereto and incorporated herein by reference:

- (a) Exhibit A: Scheduling Order;
- (b) Exhibit B: Notice of Pendency of Derivative Action, Proposed Settlement of Derivative Action, Settlement Hearing, and Right to Appear; and
- (c) Exhibit C: Order and Final Judgment.

IN WITNESS WHEREOF, IT IS HEREBY AGREED by the undersigned as of the date noted above.

Dated: August 9, 2018

OF COUNSEL:

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*Attorneys for Plaintiff Vero Beach
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Dated: August 9, 2018

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Dated: August 9, 2018

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Wilbur Prezzano, Todd Ricketts, Allan
Tessler and TD Ameritrade Holding
Corporation*



EXHIBIT A

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

VERO BEACH POLICE OFFICERS'
RETIREMENT FUND, derivatively on
behalf of nominal defendant TD
AMERITRADE HOLDING
CORPORATION,

Plaintiff,

v.

LARRY BETTINO, V. ANN HAILEY,
TIM HOCKEY, BRIAN LEVITT, KAREN
MAIDMENT, BHARAT MASRANI,
IRENE MILLER, MARK MITCHELL,
JOSEPH MOGLIA, WILBUR
PREZZANO, TODD RICKETTS, ALLAN
TESSLER and THE TORONTO-
DOMINION BANK,

Defendants,

and

TD AMERITRADE HOLDING
CORPORATION, a Delaware corporation,

Nominal Defendant.

C.A. No. 2017-0264-JRS

SCHEDULING ORDER

WHEREAS, the Parties having applied, pursuant to Chancery Court
Rule 23.1, for an Order to approve the proposed Settlement, in accordance

with the Stipulation of Settlement, dated as of August 9, 2018 (the “Stipulation”), which provides for the dismissal of the Action with prejudice upon the terms and conditions set forth in the Stipulation; the Court having read and considered the Stipulation and accompanying documents; the Stipulation being sufficient to warrant notice to Current Ameritrade Stockholders; and all parties having consented to the entry of this Order,

NOW, THEREFORE, this __ day of _____, 2018, upon application of the parties, **IT IS HEREBY ORDERED:**

1. Except for terms defined herein, all defined terms shall have the meaning set forth in the Stipulation.

2. The Settlement Hearing shall be held before The Honorable Joseph R. Slights III on _____, 2018, at __:__ .m., at Kent County Courthouse, 414 Federal Street, Dover, Delaware 19901 to (a) determine whether Vero Beach Police Officers’ Retirement Fund has adequately represented the interests of Ameritrade and its stockholders; (b) determine whether the Settlement should be approved by the Court as fair, reasonable, adequate, and in the best interests of Ameritrade; (c) determine whether the Court should enter an Order and Final Judgment substantially in the form attached as Exhibit C to the Stipulation dismissing

the Action with prejudice, and releasing, barring, and enjoining prosecution of the Released Claims against the Released Persons; (d) consider the application by Plaintiff's Counsel for an award of attorneys' fees and expenses; (e) hear and determine any objections to the Settlement or the application by Plaintiff's Counsel for an award of attorneys' fees and expenses; and (f) rule on such other matters as the Court may deem appropriate.

3. The Court reserves the right to adjourn and reconvene the Settlement Hearing, including consideration of the application for attorneys' fees and expenses, without further notice to Current Ameritrade Stockholders other than by announcement at the Settlement Hearing or any adjournment thereof.

4. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modifications as may be consented to by the Parties and without further notice to Current Ameritrade Stockholders.

5. The Court approves the form, content, and requirements of the Notice and finds that the form and manner of notice specified herein is the best notice reasonably practicable under the circumstances and

constitutes due and sufficient notice of the Settlement Hearing, and all matters relating to the Settlement, to all persons entitled to receive such notice, and fully satisfies the requirements of Chancery Court Rule 23.1 and due process.

6. No later than sixty (60) calendar days before the Settlement Hearing (the “Notice Date”), Ameritrade shall cause the Notice, substantially in the form attached to the Stipulation as Exhibit B, to be disseminated to Current Ameritrade Stockholders by the same methods Ameritrade uses to disseminate its annual meeting proxy statement in the ordinary course; provided, however, that if the Notice Date is less than sixty (60) calendar days from the date of the entry of this order, Ameritrade shall cause the notice to be disseminated as soon as practicable. Current Ameritrade Stockholders who are record holders of Ameritrade common stock on behalf of beneficial owners are directed to forward the Notice promptly to the beneficial owners of those securities, as set forth in the Notice.

7. All costs associated with disseminating the Notice shall be paid or reimbursed out of the Settlement Payment.

8. No later than fifteen (15) calendar days before the

Settlement Hearing, Ameritrade shall file proof of the dissemination of the Notice as directed herein.

9. Any Current Ameritrade Stockholder that continues to own such shares of Ameritrade common stock as of the date of the Settlement Hearing who objects to the Settlement or the application for attorneys' fees and expenses by Plaintiff's Counsel, or who otherwise wishes to be heard, may appear in person or through his, her, or its attorney at the Settlement Hearing and present any evidence or argument that may be proper and relevant; *provided, however*, that no such person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such person shall be received and considered by the Court unless, no later than ten (10) calendar days prior to the Settlement Hearing, such person files with the Register in Chancery, Court of Chancery, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware, 19801, the following: (a) a written and signed notice of intention to appear which states the name, address and telephone number of the objector and, if represented, his, her or its counsel; (b) proof that the objector owned shares of Ameritrade stock as of October 24, 2016 and continues to hold such shares; and (c) a written detailed statement of the person's objections to any matter before the Court,

and the specific grounds therefor or the reasons why such person desires to appear and to be heard, as well as all documents and writings which such person desires the Court to consider, including any legal and evidentiary support. Any such filings with the Court must also be served upon each of the following counsel (by hand, first class U.S. mail, or express service) such that they are received no later than ten (10) calendar days prior to the Settlement Hearing:

Daniel L. Berger, Esquire
GRANT & EISENHOFER P.A.
485 Lexington Avenue
New York, NY 10017

William Savitt, Esquire
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019

Peter E. Kazanoff, Esquire
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, NY 10017

10. Unless the Court otherwise directs, any person who fails to object in the manner prescribed above shall be deemed to have waived his, her, or its right to object and shall be forever barred from raising any objection to the Settlement or Plaintiff's Counsel's application for an award

of attorneys' fees and expenses, or any other matter related to the Settlement, in the Action or any other action or proceeding.

11. All briefs in support of the approval of the Settlement and Plaintiff's Counsel's application for attorneys' fees and expenses shall be filed with the Court no later than seventeen (17) calendar days before the Settlement Hearing; and reply papers, if any, shall be filed no later than three (3) calendar days before the Settlement Hearing.

12. All proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further order of this Court. Pending final determination of whether the Settlement should be approved, Plaintiff, all other Current Ameritrade Stockholders, Defendants, and the Company are enjoined from filing, commencing, or prosecuting any Released Claims against the Released Persons in the Action or in any other lawsuit in any jurisdiction.

13. If the Settlement is approved by the Court following the Settlement Hearing, the Court shall enter an Order and Final Judgment substantially in the form attached to the Stipulation as Exhibit C.

14. In the event that the Settlement is terminated pursuant to the terms of the Stipulation or the Effective Date otherwise fails to occur for any reason, the Settlement and the Stipulation (other than sections 2.2, 3.3, and 5.4 thereof) shall be canceled and terminated; this Order (other than paragraph 7 hereof) shall become null and void and be without prejudice to the rights of Plaintiff, the other Ameritrade Current Stockholders, Defendants, and the Company; and all proceedings in, and parties to, the Action shall revert to their status as of immediately prior to the entry into the Stipulation.

15. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

Vice Chancellor Joseph R. Slights III



EXHIBIT B

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

VERO BEACH POLICE OFFICERS'
RETIREMENT FUND, derivatively on
behalf of nominal defendant TD
AMERITRADE HOLDING
CORPORATION,

Plaintiff,

v.

LARRY BETTINO, V. ANN HAILEY, TIM
HOCKEY, BRIAN LEVITT, KAREN
MAIDMENT, BHARAT MASRANI, IRENE
MILLER, MARK MITCHELL, JOSEPH
MOGLIA, WILBUR PREZZANO, TODD
RICKETTS, ALLAN TESSLER and THE
TORONTO-DOMINION BANK,

Defendants,

and

TD AMERITRADE HOLDING
CORPORATION, a Delaware corporation,

Nominal Defendant.

C.A. No. 2017-0264-JRS

**NOTICE OF PENDENCY OF DERIVATIVE ACTION,
PROPOSED SETTLEMENT OF DERIVATIVE ACTION,
SETTLEMENT HEARING, AND RIGHT TO APPEAR**

TO: ALL CURRENT RECORD AND BENEFICIAL HOLDERS OF
SHARES OF COMMON STOCK OF TD AMERITRADE HOLDING
CORPORATION ("AMERITRADE" OR THE "COMPANY") AT THE
CLOSE OF BUSINESS ON AUGUST 10, 2018 (THE "RECORD DATE").
BROKERAGE FIRMS, BANKS, AND OTHER PERSONS OR ENTITIES

WHO HELD AMERITRADE SHARES OF RECORD ON AUGUST 10, 2018 WHO ARE NOT ALSO BENEFICIAL OWNERS, ARE DIRECTED TO FORWARD THIS NOTICE PROMPTLY TO THE BENEFICIAL OWNERS OF SUCH SHARES, OR REQUEST THE NOTICE ADMINISTRATOR TO DO SO (SEE SECTION AT THE END OF THIS NOTICE ENTITLED “NOTICE TO PERSONS OR ENTITIES HOLDING RECORD OWNERSHIP ON BEHALF OF OTHERS”).

The purpose of this Notice is to inform you about: (i) the pendency of the above-captioned stockholder derivative action (the “Action”), which was brought by a Current Ameritrade Stockholder on behalf of and for the benefit of Ameritrade in the Court of Chancery of the State of Delaware (the “Court”); (ii) a proposed settlement of the Action (the “Settlement”), subject to Court approval and subject to other conditions of the Settlement being satisfied, *i.e.*, the Effective Date occurs, as provided in a Stipulation of Settlement (the “Stipulation”) that was filed with the Court and is publicly available for review as indicated at paragraph 35 below; (iii) the hearing that the Court will hold at the Kent County Courthouse, 414 Federal Street, Dover, Delaware 19901 on _____, 2018 to determine whether to approve the Settlement and to consider Plaintiff’s Counsel’s application for an award of attorneys’ fees and expenses; and (iv) Current Ameritrade Stockholders’ rights with respect to the proposed Settlement and Plaintiff’s Counsel’s application for attorneys’ fees and expenses.¹

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.
YOUR RIGHTS WILL BE AFFECTED BY THE ACTION.**

The Stipulation was entered into as of August 9, 2018, between and among: (i) Vero Beach Police Officers’ Retirement Fund (“Plaintiff”); (ii) defendants Larry Bettino, V. Ann Hailey, Tim Hockey, Brian Levitt, Karen Maidment, Bharat Masrani, Irene Miller, Mark Mitchell, Joseph Moglia, Wilbur Prezzano, Todd Ricketts, and Allan Tessler, as members of the Ameritrade Board of Directors (the “Individual Defendants”); (iii) defendant The Toronto-Dominion Bank (“TD Bank”); and (iv) nominal defendant Ameritrade (together with the Individual Defendants and TD Bank, “Defendants” and collectively with Plaintiff, the Individual Defendants, and TD Bank, the “Parties” or the “Settling Parties”), subject to the approval of the Court pursuant to Delaware Chancery Court Rule 23.1.

¹ All capitalized terms not otherwise defined in this Notice shall have the meaning provided in the Stipulation.

Because this Action was brought as a stockholder derivative action on behalf of and for the benefit of Ameritrade, the benefits from the Settlement will go to Ameritrade. Individual Ameritrade stockholders will not receive any direct payment from the Settlement.

WHAT IS THE PURPOSE OF THIS NOTICE?

1. The purpose of this Notice is to explain the Action, the terms of the proposed Settlement, and how the proposed Settlement affects Current Ameritrade Stockholders' legal rights.

2. In a stockholder derivative action, one or more people and/or entities who are current stockholders of a corporation sue on behalf of and for the benefit of the corporation, seeking to enforce the corporation's legal rights.

3. As described more fully in paragraphs 31 to 34 below, certain Current Ameritrade Stockholders have the right to object to the proposed Settlement and the application by Plaintiff's Counsel for an award of attorneys' fees and litigation expenses. Certain Current Ameritrade Stockholders have the right to appear and be heard at the Settlement Hearing, which will be held before The Honorable Joseph R. Slights III on _____, 2018, at ___:___ .m., at _____. At the Settlement Hearing, the Court will (i) determine whether Plaintiff and Plaintiff's Counsel have adequately represented the interests of Ameritrade and its stockholders; (ii) determine whether the Settlement should be approved by the Court as fair, reasonable, adequate, and in the best interests of Ameritrade; (iii) determine whether the Court should enter an Order and Final Judgment, substantially in the form attached as Exhibit C to the Stipulation, dismissing the Action with prejudice, and releasing, barring, and enjoining prosecution of any and all Released Claims against the Released Persons; (iv) consider the application by Plaintiff's Counsel for an award of attorneys' fees and expenses; (v) hear and determine any objections to the Settlement or the application by Plaintiff's Counsel for an award of attorneys' fees and expenses; and (vi) rule on such other matters as the Court may deem appropriate.

4. The Court has reserved the right to adjourn or continue the Settlement Hearing, including consideration of the application by Plaintiff's Counsel for attorneys' fees and expenses, without further notice to you other than by announcement at the Settlement Hearing or any adjournment thereof. The Court has further reserved the right to approve the Settlement, at or after the Settlement

Hearing, with such modifications as may be consented to by the Settling Parties and without further notice of any kind.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

THE FOLLOWING DESCRIPTION OF THE ACTION AND THE SETTLEMENT HAS BEEN PREPARED BY COUNSEL FOR THE SETTLING PARTIES. THE COURT HAS MADE NO FINDINGS WITH RESPECT TO SUCH MATTERS, AND THIS NOTICE IS NOT AN EXPRESSION OR STATEMENT BY THE COURT OF FINDINGS OF FACT.

5. This Action arises from the acquisition of Scottrade Financial Services, Inc. (“Scottrade Financial”) by Ameritrade. In the summer of 2016, Scottrade Financial began exploring a potential sale of its business. At the time, TD Bank owned approximately 42% of Ameritrade’s outstanding common stock. In August 2016, Ameritrade submitted a bid to purchase Scottrade Financial whereby (i) TD Bank would acquire Scottrade Bank, a wholly-owned subsidiary of Scottrade Financial; and (ii) Ameritrade would acquire the remainder of Scottrade Financial.

6. Plaintiff alleged that during the period relevant to the claims asserted in this Action, TD Bank was Ameritrade’s controlling stockholder. Plaintiff further alleged that TD Bank’s involvement in the prospective acquisition created a conflict of interest because TD Bank was incentivized to reduce the amount that it paid to purchase Scottrade Bank, which would necessarily increase the amount Ameritrade would pay to acquire the remainder of Scottrade Financial.

7. On October 24, 2016, Ameritrade announced a transaction pursuant to which TD Bank would first purchase Scottrade Bank from Scottrade Financial for around \$1.3 billion in cash and immediately thereafter, Ameritrade would purchase the remainder of Scottrade Financial for \$2.7 billion (collectively, the “Scottrade Transactions”).

8. On February 2, 2017, Plaintiff served a demand on Ameritrade pursuant to 8 *Del. C.* § 220 to inspect certain books and records in order to investigate potential breaches of fiduciary duty in connection with the Scottrade Transactions (the “220 Demand”). On February 28, 2017, the Company produced documents in response to Plaintiff’s 220 Demand.

9. On April 6, 2017, Plaintiff filed a Verified Stockholder Derivative Complaint (the “Complaint”) in this Court. The Complaint alleged, *inter alia*, (i) that TD Bank was the controlling stockholder of Ameritrade; and (ii) that the Scottrade Transactions were not entirely fair to Ameritrade. The Complaint asserted derivative claims, brought on behalf of the Company, for (i) breach of fiduciary duty against TD Bank in its capacity as a controlling stockholder of Ameritrade; and (ii) breaches of fiduciary duty against the Individual Defendants in connection with their approval of the Scottrade Transactions.

10. The Scottrade Transactions closed on September 18, 2017.

11. On November 2, 2017, Ameritrade, the Individual Defendants and TD Bank moved to dismiss the Complaint. Ameritrade and the Individual Defendants argued, *inter alia*, that (i) the Complaint did not adequately plead demand futility; (ii) the Complaint did not plead facts supporting a claim that the Scottrade Transactions were economically unfair and (iii) the Complaint failed to state a non-exculpated claim for breach of fiduciary duty. TD Bank argued, *inter alia*, that (i) the Complaint did not adequately plead demand futility and (ii) the Complaint failed to state a claim for breach of fiduciary duty because the Complaint did not adequately allege that TD Bank is a controlling stockholder of Ameritrade, that TD Bank engaged in a conflicted transaction, and/or that Ameritrade paid an unfair price for Scottrade Financial.

12. On December 18, 2017, Plaintiff filed a Verified Amended Stockholder Derivative Complaint (the “Amended Complaint”). The Amended Complaint asserted derivative claims, brought on behalf of the Company, (i) against TD Bank for breaches of fiduciary duties in its capacity as a controlling stockholder of Ameritrade, for aiding and abetting breaches of fiduciary duty, and for unjust enrichment; and (ii) against the Individual Defendants for breaches of fiduciary duty in connection with the Scottrade Transactions.

13. On February 16, 2018, Ameritrade, the Individual Defendants and TD Bank filed motions to dismiss the Amended Complaint (the “Motions to Dismiss”). Ameritrade and the Individual Defendants argued, *inter alia*, that (i) the Amended Complaint did not adequately plead demand futility; (ii) the Amended Complaint did not plead facts supporting a claim that the Scottrade Transactions were economically unfair and (iii) the Amended Complaint failed to state a non-exculpated claim for breach of fiduciary duty. TD Bank argued, *inter alia*, that (i) the Amended Complaint did not adequately plead demand futility; (ii) the Amended Complaint failed to state a claim for breach of fiduciary duty because the Complaint did not adequately allege that TD Bank is a controlling stockholder of

Ameritrade, that TD Bank engaged in a conflicted transaction, and/or that Ameritrade paid an unfair price for Scottrade Financial; (iii) the Amended Complaint failed to state a claim for aiding and abetting breach of fiduciary duty and (iv) the Amended Complaint failed to state a claim for unjust enrichment.

14. On April 9, 2018, the Parties filed a stipulation and proposed order that, *inter alia*, adjourned the briefing schedule of the Motions to Dismiss pending completion of a mediation that was scheduled for May 29, 2018. The Court entered the order on April 9, 2018.

15. On May 29, 2018, the Parties attended a mediation session with Michael Young (the “Mediator”). In advance of the mediation session, the Parties provided to the Mediator—and exchanged among themselves—mediation submissions.

16. On June 15, 2018, the Parties notified the Court that the Parties had not reached a settlement of the Action and that a subsequent mediation session was scheduled for July 11, 2018. The Parties simultaneously filed a stipulation and proposed order concerning completion of briefing of the Motions to Dismiss.

17. On July 11, 2018, the Parties attended the subsequent mediation session with the Mediator.

18. On July 16, 2018, the Parties wrote a letter to the Court (i) requesting that the Court adjourn the briefing schedule on the Motions to Dismiss in light of the progress that was made during the Parties settlement discussions; and (ii) informing the Court that the Parties would contact the Court on or before July 26, 2018 to provide a further update and (if necessary) a proposed updated schedule for completion of briefing on Defendants’ Motions to Dismiss. On July 19, 2018, the Court granted the Parties’ request to adjourn the briefing schedule on the Motions to Dismiss.

19. On July 20, 2018, the Parties reached an agreement in principle to settle the Action.

WHAT ARE THE TERMS OF THE SETTLEMENT?
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20. As consideration for the Settlement, the amount of seventeen million nine hundred fifty thousand dollars (\$17,950,000) (the “Settlement Payment”) – minus the amount of any Fee Award (defined in paragraph 30 below) and the cost

of providing this Notice as well as any out-of-pocket costs necessary to implement the settlement – will be paid to the Company from an escrow account funded by TD Bank and an insurer on behalf of the Individual Defendants prior to the Settlement Hearing.

WHAT ARE THE SETTLING PARTIES' REASONS FOR THE SETTLEMENT?

21. Plaintiff and Plaintiff's Counsel thoroughly considered the facts and law underlying the Action. Plaintiff maintains that the claims asserted in the Action have merit, but also believes that the Settlement set forth below provides substantial and immediate benefits for Ameritrade. In addition to these substantial benefits, Plaintiff and Plaintiff's Counsel have considered: (i) the attendant risks of continued litigation and the uncertainty of the outcome of the Action; (ii) the probability of success on the merits; (iii) possible defenses to the claims asserted in the Action; (iv) the desirability of permitting the Settlement to be consummated according to its terms; (v) the expense and length of continued proceedings necessary to prosecute the Action through trial and appeals; (vi) the likelihood of monetary recovery to the extent Plaintiff was able to secure a monetary judgment against one or more of the Defendants; and (vii) the conclusion by Plaintiff and Plaintiff's Counsel that the terms and conditions of the Settlement are fair, reasonable, and adequate, and that it is in the best interests of Ameritrade to settle the Action on the terms set forth herein.

22. Plaintiff and Plaintiff's Counsel have determined that the proposed Settlement is fair, reasonable, adequate, and in the best interests of Ameritrade. The Settlement provides substantial immediate benefits to Ameritrade without the risk that continued litigation could result in obtaining similar or lesser relief for Ameritrade after continued extensive and expensive litigation, including trial and the appeals that were likely to follow.

23. Defendants maintain that their conduct was at all times proper and in compliance with applicable law and they have denied, and continue to vigorously deny, that they have committed or intended to commit any breaches of their obligations or violations of law arising out of any of the conduct, statements, acts, or omissions alleged in the Action or otherwise. Defendants further deny that they breached any fiduciary or other legal duties owed to Ameritrade. TD Bank further denies that (i) it was Ameritrade's controlling stockholder during the period relevant to this Action, such that it owed Ameritrade any fiduciary duties in any

such capacity in connection with the Scottrade Transactions; (ii) it aided and abetted any breaches of fiduciary duty, and (iii) it was unjustly enriched in connection with any of the conduct alleged in the Action. Defendants also deny that Ameritrade was harmed by any conduct of TD Bank and/or the Individual Defendants alleged in the Action. Defendants assert that, at all relevant times, they acted in good faith and in a manner consistent with any fiduciary and/or legal duties owed to Ameritrade in connection with the Scottrade Transactions.

24. Defendants, however, recognize the uncertainty and the risk inherent in any litigation, and the difficulties and substantial burdens, expense, and time that may be necessary to defend this proceeding. Defendants wish to eliminate the uncertainty, risk, burden, and expense of further litigation, and to permit the operation of Ameritrade without further distraction to and diversion of its directors and executives due to the Action. Defendants thus acknowledge that the Settlement provides a benefit to Ameritrade. Defendants have therefore decided to settle the Action on the terms and conditions set forth in the Stipulation, without in any way acknowledging any wrongdoing, fault, liability, or damages.

WHAT WILL HAPPEN IF THE SETTLEMENT IS APPROVED? WHAT CLAIMS WILL THE SETTLEMENT RELEASE?

25. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). Upon entry of the Judgment, the Action will be dismissed in its entirety and with prejudice and the following releases will become effective:²

Release of Claims by Plaintiff and Ameritrade: Ameritrade, Plaintiff, and each and every other Current Ameritrade Stockholder, on behalf of themselves and any other person or entity who could assert any of the Defendant Released Claims on their behalf, shall fully, finally, and forever release, relinquish, settle, and discharge, and shall forever be enjoined from prosecuting, the Defendant Released Claims against Defendant Released Persons.

“Defendant Released Claims” means any and all claims for relief or causes of action, debts, demands, rights, or liabilities whatsoever, known or unknown,

² The “Effective Date” of the Settlement shall occur only if the Court has approved the Settlement, entered the Judgment, and the Judgment has become Final. Should the Effective Date fail to occur for any reason, the Judgment entered in the Action and the dismissal of the Action and Releases provided thereunder shall be null and void and the Settling Parties shall revert to their respective positions in the Action as of August 9, 2018.

fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, against any Defendant Released Person(s), that (i) were asserted in the Action, or (ii) otherwise arise out of or relate to the Scottrade Transactions. Defendant Released Claims do not include any claims if brought directly (rather than derivatively by a stockholder) by Ameritrade against anyone; however, the Defendant Released Claims include all claims of, arising out of, or relating to alleged breaches of fiduciary duty, aiding and abetting, and unjust enrichment against TD Bank, Ameritrade and/or the Individual Defendants arising out of or relating to the Scottrade Transactions, regardless of whether such claims are asserted directly or derivatively by a Current Ameritrade Stockholder or directly by Ameritrade.

“Defendant Released Persons” means Defendants and their respective past, present, or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing agents, 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.

Release of Claims by Defendants: Upon entry of the Judgment, Defendants, on behalf of themselves and any other person or entity who could assert any of the Plaintiff Released Claims on their behalf, shall fully, finally, and forever release, relinquish, settle, and discharge, and shall forever be enjoined from prosecuting, the Plaintiff Released Claims against Plaintiff Released Persons.

“Plaintiff Released Claims” means and includes any and all claims for relief or causes of action, debts, demands, rights, or liabilities whatsoever, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, against any Plaintiff Released Persons (i) arising out of and/or relating in any way to Plaintiff’s prosecution of and/or participation in the Action and/or Plaintiff’s conduct as derivative plaintiff in the Action, or (ii) that otherwise in any way relate to the subject matter of the Action.

“Plaintiff Released Persons” means Vero Beach Police Officers’ Retirement Fund, and its past, present, or future family members, spouses, heirs, trusts, trustees, executors, estates, administrators, beneficiaries, distributees, foundations, agents, employees, fiduciaries, partners, partnerships, general or limited partners or partnerships, joint ventures, member firms, limited liability companies, corporations, parents, subsidiaries, divisions, affiliates, associated entities, stockholders, principals, officers, directors, managing directors, members, managing members, managing agents, 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.

26. Plaintiff, in its individual capacity, and derivatively on behalf of Ameritrade, acknowledges that it may discover facts in addition to or different from those now known or believed to be true with respect to the subject matter of the Defendant Released Claims, but that it is its intention to fully, finally, and forever settle and release with prejudice the Defendant Released Claims. Plaintiff and Plaintiff’s Counsel shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law). California Civil Code § 1542 provides that:

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

27. Defendants acknowledge that they may discover facts in addition to or different from those now known or believed to be true with respect to the subject matter of the Plaintiff Released Claims, but that it is their intention to fully, finally, and forever settle and release with prejudice the Plaintiff Released Claims. Defendants and their counsel shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the

laws of the United States or any state or territory thereof, or of the common law). California Civil Code § 1542 provides that:

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

28. If the Settlement is approved and the Effective Date occurs, Ameritrade will have released the Defendant Released Claims described above against the Defendant Released Persons and no Current Ameritrade Stockholder will be able to bring another action asserting the Defendant Released Claims against the Defendant Released Persons directly and/or on behalf of the Company.

29. Pending final determination of whether the Settlement should be approved, all proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement, have been stayed and suspended. Pending final determination of whether the Settlement should be approved, Plaintiff, all Current Ameritrade Stockholders, Defendants, and the Company are enjoined from filing, commencing, or prosecuting any Released Claims against the Released Persons in the Action or in any other lawsuit in any jurisdiction.

HOW WILL THE ATTORNEYS BE PAID?

30. Plaintiff's Counsel have not received any payment for their services in pursuing the claims asserted in the Action, nor have Plaintiff's Counsel been reimbursed for their out-of-pocket expenses. Plaintiff's Counsel invested their own resources in pursuing their case on a contingency basis, meaning they would only recover their expenses and be compensated for their time if they created a benefit for Ameritrade through the Action. In light of the risks undertaken in pursuing the Action on a contingency basis and the benefit created for Ameritrade through the prosecution and the Settlement of the Action, Plaintiff's Counsel intends to petition the Court for an award of attorneys' fees and litigation expenses to be paid from the Settlement Payment, and from no other source, which is no greater than 20% of the Settlement Payment (equal to three million five hundred

ninety thousand dollars (\$3,590,000)) (the “Fee Application”). The Court will determine the amount of attorneys’ fees and expenses, if any, awarded to Plaintiff’s Counsel (the “Fee Award”).

WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD?
DO I HAVE THE RIGHT TO APPEAR AT THE SETTLEMENT
HEARING? HOW DO I OBJECT TO THE SETTLEMENT?

31. The Court will consider the Settlement and all matters related to the Settlement at the Settlement Hearing. The Settlement Hearing will be held before The Honorable Joseph R. Slights III on _____, 2018, at _____.m., at Kent County Courthouse, 414 Federal Street, Dover, Delaware 19901.

32. Any person that owned Ameritrade common stock as of October 24, 2016 and continues to own such stock through _____, 2018, the date of the Settlement Hearing, may file an objection to the Settlement with the Court (regardless of whether the stockholder intends to appear at the Settlement Hearing). As discussed in more detail in paragraph 33 below, to be considered by the Court, the objection must (i) be filed with the Court by no later than _____; (ii) be served upon Plaintiff’s Counsel and Counsel for Defendants by no later than _____; and (iii) include, at a minimum, the information set forth in paragraph 33 below.

33. Any person that owned Ameritrade common stock as of October 24, 2016 and continues to own such stock through _____, 2018, the date of the Settlement Hearing, who objects to the Settlement or the application for attorneys’ fees and expenses by Plaintiff’s Counsel, or who otherwise wishes to be heard, may appear in person or through his, her, or its attorney at the Settlement Hearing and present any evidence or argument that may be proper and relevant; *provided, however*, that no papers, briefs, pleadings, or other documents submitted by any such person shall be received and considered by the Court unless, no later than _____, such person files with the Register in Chancery, Court of Chancery, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware, 19801, the following: (a) a written and signed notice of intention to appear which states the name, address and telephone number of the objector and, if represented, his, her or its counsel; (b) proof that the objector owned shares of Ameritrade stock as of October 24, 2016 and continues to own such shares; and (c) a written detailed statement of the person’s objections to any matter before the Court, and the specific grounds therefor or the reasons why such person desires to

appear and be heard, as well as all documents and writings which such person desires the Court to consider, including any legal and evidentiary support. Any such filings with the Court must also be served upon each of the following counsel (by hand, first class U.S. mail, or express service) such that they are received no later than _____, 2018:

Plaintiff's Counsel:

Daniel L. Berger, Esquire
GRANT & EISENHOFER P.A.
485 Lexington Avenue
New York, NY 10017

Counsel for Defendants and Ameritrade:

William Savitt, Esquire
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019

Peter E. Kazanoff, Esquire
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, NY 10017

34. Unless the Court otherwise directs, any person who fails to object in the manner prescribed above shall be deemed to have waived his, her, or its right to object and shall be forever barred from raising any objection to the Settlement or the Fee Application, or any other matter, action or proceeding related to the Settlement or the Action.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I
HAVE QUESTIONS?

35. This Notice does not purport to be a comprehensive description of the Action, the allegations related thereto, the terms of the Settlement, or the Settlement Hearing. For a more detailed statement of the matters involved in the Action, you may inspect the pleadings filed in the Action, the Stipulation of

Settlement, the Orders entered by the Court, and other papers filed in the Action at the Office of the Register in Chancery in the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 N. King Street, Wilmington, Delaware 19801, during regular business hours of each business day. You may also view a copy of the Stipulation of Settlement at http://_____. If you have questions regarding the Settlement, you may write or call Plaintiff's Counsel: Daniel L. Berger, Esquire, Grant & Eisenhofer P.A., 485 Lexington Avenue, New York, NY 10017 ((646) 722-8500).

DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE REGISTER IN CHANCERY REGARDING THIS NOTICE.

NOTICE TO PERSONS OR ENTITIES HOLDING RECORD OWNERSHIP ON BEHALF OF OTHERS.

36. Brokerage firms, banks, and other persons or entities who hold shares of Ameritrade common stock as record owners, but not as beneficial owners, are directed to either (a) promptly request from the Notice Administrator, _____, sufficient copies of this Notice to forward to all such beneficial owners and after receipt of the requested copies promptly forward such Notices to all such beneficial owners; or (b) promptly provide a list of the names and addresses of all such beneficial owners to the Notice Administrator, after which the Notice Administrator will promptly send copies of this Notice to such beneficial owners. Copies of this Notice may be obtained by calling the Notice Administrator toll-free at _____.

Dated: _____, 2018

BY ORDER OF THE COURT OF
CHANCERY OF THE STATE OF
DELAWARE:



EXHIBIT C

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

VERO BEACH POLICE OFFICERS'
RETIREMENT FUND, derivatively on
behalf of nominal defendant TD
AMERITRADE HOLDING
CORPORATION,

Plaintiff,

v.

LARRY BETTINO, V. ANN HAILEY,
TIM HOCKEY, BRIAN LEVITT, KAREN
MAIDMENT, BHARAT MASRANI,
IRENE MILLER, MARK MITCHELL,
JOSEPH MOGLIA, WILBUR
PREZZANO, TODD RICKETTS, ALLAN
TESSLER and THE TORONTO-
DOMINION BANK,

Defendants,

and

TD AMERITRADE HOLDING
CORPORATION, a Delaware corporation,

Nominal Defendant.

C.A. No. 2017-0264-JRS

ORDER AND FINAL JUDGMENT

A hearing having been held before this Court on _____
____, 2018, pursuant to the Court's Order of _____ __, 2018 (the

“Scheduling Order”), upon the Stipulation of Settlement, dated August 9, 2018 (the “Stipulation”)¹, entered into in the above-captioned stockholder derivative action (the “Action”), which is incorporated herein by reference, it appearing that due notice of the hearing has been given in accordance with the Scheduling Order, the parties having appeared by their respective attorneys of record, the Court having heard and considered evidence in support of the proposed Settlement, the attorneys for the Parties having been heard, an opportunity to be heard having been given to all other persons requesting to be heard in accordance with the Scheduling Order, the Court having determined that notice to Current Ameritrade Stockholders was adequate and sufficient, and the entire matter of the proposed Settlement having been heard and considered by the Court,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, this ____ day of _____, 2018, that:

1. Unless otherwise defined herein, all defined terms shall have the meaning set forth in the Stipulation and the Scheduling Order.
2. The Court has jurisdiction over the subject matter of the

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Stipulation.

Action, and all matters relating to the Settlement of the Action, as well as personal jurisdiction over the Parties and each of the Current Ameritrade Stockholders, and it is further determined that Plaintiff, Defendants and all Current Ameritrade Stockholders, as well as their heirs, executors, successors, and assigns, are bound by this Order and Final Judgment.

3. Notice has been given to Current Ameritrade Stockholders, pursuant to and in the manner directed by the Scheduling Order, proof of mailing of the Notice was filed with the Court, and full opportunity to be heard has been offered to all Parties and to all other persons and entities in interest with respect to all matters relating to the Settlement. The form and manner of the Notice is hereby determined to have been the best notice reasonably practicable under the circumstances and to have been given in full compliance with the requirements of Chancery Court Rule 23.1 and due process.

4. Based on the record in the Action, each of the provisions of Chancery Court Rule 23.1 has been satisfied and the Action has been properly maintained according to the provisions of Chancery Court Rule 23.1.

5. Plaintiff in the Action, Vero Beach Police Officers' Retirement Fund, has held stock in Ameritrade since the time of the conduct complained of in the Action, continues to hold stock in the Company and otherwise has standing to prosecute the Action, and is an adequate representative of Current Ameritrade Stockholders.

6. The Settlement is found to be fair, reasonable, adequate, and in the best interests of Ameritrade, and is hereby approved pursuant to Chancery Court Rule 23.1. The Parties are hereby authorized and directed to comply with and to consummate the Settlement in accordance with its terms and provisions, and the Register in Chancery is directed to enter and docket this Order and Final Judgment.

7. The Action is hereby dismissed with prejudice as to Defendants and against Plaintiff and all other Current Ameritrade Stockholders. The Parties shall bear their own fees, costs, and expenses, except as provided in Paragraph 13 below or as otherwise provided in the Stipulation and the Scheduling Order.

8. Upon entry of this Order and Final Judgment, Ameritrade, Plaintiff, and each and every other Current Ameritrade Stockholder, on behalf of themselves and any other person or entity who

could assert the Defendant Released Claims on their behalf, shall fully, finally, and forever release, relinquish, settle, and discharge, and shall forever be enjoined from prosecuting, the Defendant Released Claims against the Defendant Released Persons. Nothing herein is intended to or shall affect any rights or release any claim with respect to (i) past or future indemnification or advancement or payment of past or future legal fees and defense costs arising under and pursuant to any Released Person's respective advancement or indemnification agreements with Ameritrade, Ameritrade's certificate of incorporation or by-laws, any insurance policy covering Ameritrade or its current or former officers and directors, applicable law, equity or other contract or applicable insurance; (ii) the rights of any Defendant or any Insurer in connection with the allocation of the Settlement Payment as between TD Bank and any Insurer; or (iii) any past or future claims between any Defendant and any Insurer.

9. Upon entry of this Order and Final Judgment, Defendants, on behalf of themselves and any other person or entity who could assert any of the Plaintiff Released Claims on their behalf, shall fully, finally, and forever release, relinquish, settle, and discharge, and shall forever be enjoined from prosecuting, the Plaintiff Released Claims against

the Plaintiff Released Persons.

10. The Parties are hereby authorized, without further approval from the Court, to agree to adopt such amendments, modifications, and expansions of the Stipulation that are consistent with this Order and Final Judgment and the Stipulation and that do not limit the rights of Plaintiff, Defendants, or the Current Ameritrade Stockholders under the Stipulation. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

11. Neither this Order and Final Judgment, nor the Stipulation or their negotiation, nor any proceedings taken pursuant thereto shall be deemed or argued to be evidence of or to constitute an admission or concession by: (a) Defendants or any of the other Defendant Released Persons as to (i) the truth of any fact alleged by Plaintiff, (ii) the validity of any claims or other issues raised, or which might be or might have been raised, in the Action or in any other litigation, (iii) the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, (iv) any wrongdoing, fault, or liability of any kind by any of them, which each of them expressly denies; or (b) Plaintiff or any of the other

Plaintiff Released Persons that any of their claims are without merit, that any of the Defendants or Defendant Released Persons had meritorious defenses, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Payment.

12. In the event that the Settlement is terminated pursuant to the terms of the Stipulation or the Effective Date otherwise fails to occur for any other reason, then (i) the Settlement and the Stipulation (other than sections 2.2, 3.3, and 5.4 thereof) shall be canceled and terminated; (ii) this Order and Final Judgment and any related orders entered by the Court shall in all events be treated as vacated, *nunc pro tunc*; (iii) the releases provided under this Judgment shall be null and void; (iv) the Settlement shall not be admissible in any proceeding before any court or tribunal; (v) all proceedings in, and parties to, the Action shall revert to their status as of immediately prior to the Parties' entry into the Stipulation, and no materials created by or received from another Party that were used in, obtained during, or related to settlement discussions shall be admissible for any purpose in any court or tribunal, or used, absent consent from the disclosing party, for any other purpose or in any other capacity, except to the extent that such materials are required to be produced during discovery in the Action or in

any other litigation; and (vi) the Parties shall proceed in all respects as if the Stipulation had not been entered into by the Parties.

13. Plaintiff's Counsel, for the benefit of themselves and all other plaintiff's counsel, are awarded attorneys' fees and expenses in the amount of \$_____, which award the Court finds to be fair and reasonable, and which shall be paid to Plaintiff's Counsel in accordance with the Stipulation.

14. No proceedings or Court order with respect to the award, if any, of attorneys' fees or expenses to Plaintiff's Counsel shall in any way disturb or affect this Order and Final Judgment (including precluding the Order and Final Judgment from being Final or otherwise being entitled to preclusive effect), and any such proceedings or Court order shall be considered separate from this Order and Final Judgment.

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

Vice Chancellor Joseph R. Slights III



CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2018, a copy of the foregoing document was served via *File & ServeXpress* upon the following attorneys of record:

Jay W. Eisenhofer, Esquire
Michael T. Manuel, Esquire
GRANT & EISENHOFER P.A.
123 Justison Street
Wilmington, DE 19801

Raymond J. DiCamillo, Esquire
John D. Hendershot, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

/s/ Berton W. Ashman, Jr.
Berton W. Ashman, Jr. (#4681)