IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

MITCHELL PARTNERS, L.P., a California limited partnership, individually and on behalf of all others similarly situated,	)	
Plaintiff,	)	
v.	)	C.A. No. 2020-0985-KSJM
AMFI CORPORATION, a Delaware Corporation, JACK B. YANCEY, CAROLYN PUGH, BARBARA WOODBURY, MARILYN HESS, CAROL HARRISON, T.B.H. CORP., a Delaware Corporation, LITTLE SABINE, INC., a Delaware Corporation, DUNES MOTEL, INC., a Delaware Corporation, and HOLI CORP., a Delaware Corporation,	)	
Defendants.	)	

POST-TRIAL MEMORANDUM OPINION

Date Submitted: July 22, 2026
Date Decided: October 1, 2026
Date Reissued: October 16, 2026[1]

R. Bruce McNew, Kevin D. Levitsky, COOCH AND TAYLOR, P.A., Wilmington, Delaware; *Counsel for Mitchell Partners, L.P.*

Lisa M. Zwally, BALLARD SPAHR LLP, Wilmington, Delaware; Sarah R. Martin, Bryan T. Reed, GREENBERG TRAURIG, LLP, Wilmington, Delaware; Frank E. Merideth Jr., GREENBERG TRAURIG, LLP, Austin, Texas; *Counsel for AMFI Corporation, Jack B. Yancey, Carolyn Pugh, Barbara Woodbury, Marilyn Hess, Carol Harrison, T.B.H. Corp., Little Sabine, Inc., Dunes Motel, Inc., and Holi Corp.*

McCORMICK, C.

[1] The court reissued this decision to acknowledge the efforts of lead defense counsel who withdrew as counsel of record due to a firm change and then re-entered her appearance after the court issued this decision.

In 2019, AMFI Corporation disclosed that it had $20 million worth of Class B stock outstanding. This was news to the plaintiff, who had acquired AMFI Class A stock years earlier unaware of the existence of the Class B stock. To investigate the origin of the Class B shares, the plaintiff demanded inspection of AFMI's stock ledger. In response, AMFI produced documents that did not meet the legal standard of a stock ledger and did not reflect any Class B shares. So the plaintiff filed this action.

In its original form, the complaint claimed that the company failed to maintain a stock ledger and that the company's directors breached their fiduciary duties by allowing this to happen. The defendants took an indignant posture early in the litigation, appearing to dismiss much of the plaintiff's legal pursuit as quixotry. Yet after the plaintiff demonstrated deficiencies with the company's stock ledger on summary judgment, the defendants worked in good faith to correct the stock ledger.

To the defendants' dismay, that did not end the litigation. By this time, plaintiff's suspicion had grown to question the existence and issuance of the Class B shares, and the plaintiff added new claims on these issues. This made the defendants more indignant, and intractable litigation followed. Years of contentious proceedings made way to trial on the merits.

This post-trial decision ends the imbroglio. Ultimately, the factual record proved less complicated than the human dynamics that perpetuated the dispute. The defendants demonstrated that AFMI issued the Class B shares before the plaintiff had standing to challenge the issuance, and the plaintiff failed to show any bad faith on the part of AMFI's fiduciaries. This decision enters judgment for the defendants.

I. FACTUAL BACKGROUND

The court held trial over three days. The record comprises 259 trial exhibits, live testimony from four fact and two expert witnesses, deposition testimony from eight witnesses, and 18 stipulations of fact. These are the facts as the court finds them after trial.[2]

A. American Fidelity Life Forms AMFI As Its Holding Company Through A Reorganization.

AMFI Corporation (the "Company") is a Delaware holding company.[3] Its subsidiaries and affiliates operate in the life insurance business and own real property in Florida.[4] Before AMFI was formed in March of 1982, the business that would merge into AMFI operated as American Fidelity Life Insurance Company ("American Fidelity Life"). American Fidelity Life is a Florida corporation founded

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[2] This decision cites to: C.A. No. 2020-0985-KSJM docket entries (by docket "Dkt." number); trial exhibits (by "JX-" number); the trial transcript, Dkts. 360–62 ("Trial Tr."); and stipulated facts set forth in Section II of the Stipulation and Pre-Trial Order, Dkt. 349 ("PTO"). The parties called the following fact witnesses: Victoria Corporaal (former AMFI stock transfer agent); Carol Harrison (AMFI director and former American Fidelity Life treasurer); William Mitchell (Mitchell Partners representative); and Marilyn Woodbury, named in the caption as Marilyn Hess (AMFI President and director). The parties called the following expert witnesses: John Drum (AMFI's damages expert) and Joseph Raymond (Mitchell Partners's damages expert). The parties submitted the deposition transcripts of the live witnesses and called the following witnesses by deposition only: Carolyn Pugh (former AMFI director and former American Fidelity Life treasurer) and Jack Yancey (AMFI director and American Fidelity Life President). The transcripts of the witnesses' respective depositions are cited using the witnesses' last names and "Dep. Tr." If a witness sat for multiple days of deposition, the day is identified (*e.g.*, "Day 1").

[3] PTO § II ¶ 3.

[4] *Id.*

in 1956 by Charles Woodbury to provide life insurance products to active-duty service members.[5]

American Fidelity Life had several subsidiaries formed to develop, own, and operate hotels and other properties on the Florida Gulf Coast—T.B.H. Corp.; Little Sabine, Inc.; Dunes Motel, Inc.; and Holi Corp. (collectively, the "Hotel Subsidiaries").[6]

In early 1982, American Fidelity Life decided to restructure the business for operational flexibility and regulatory advantages (the "Reorganization").[7] As the Reorganization was originally conceived, AMFI would serve as a holding company of American Fidelity Life, which would merge with a subsidiary of AMFI (the "Merger") under the parties' agreement (the "Merger Agreement").[8] American Fidelity Life stockholders would receive shares of AMFI stock in exchange for their shares of American Fidelity Life stock on a one-to-one basis.[9] The subsidiary's common stock, held by AMFI, would be converted into American Fidelity Life stock, which would be the only outstanding American Fidelity Life stock.[10]

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[5] JX-10 ("Form S-14"), Ex. 8 ("Request for Rulings") at 81; Trial Tr. at 526:7–527:2 (M. Woodbury). This decision refers to Barbara, Charles, and Marilyn Woodbury by their first names. The court intends no familiarity or disrespect.

[6] *See* Request for Rulings at 82; JX-156; PTO § II ¶ 3.

[7] JX-11 ("1982 Proxy Statement") at 19–20; Trial Tr. at 534:8–535:3 (M. Woodbury).

[8] 1982 Proxy Statement at 18; Form S-14, Ex. A (Merger Agreement) at 46.

[9] Merger Agreement at 46–47.

[10] *Id.* at 46.

The board then tweaked the plan to avoid federal tax liability from the Reorganization.[11] As amended, the plan involved two classes of AMFI stock: Class A voting stock and Class B non-voting stock. The AMFI Class A voting stock would be issued to stockholders in exchange for 100% of American Fidelity Life's Class A stock. The AMFI Class B stock would be issued to American Fidelity Life in exchange for ownership of two of American Fidelity Life's investment subsidiaries, AMFI Investments Corporation ("Investments Corp.") and Little Sabine, Inc.[12]

According to American Fidelity Life's accounting advisor Peat, Marwick, Mitchell & Co., issuing Class B stock to American Fidelity Life in exchange for all of the stock of Investments Corp. and Little Sabine would make those companies subsidiaries of AMFI rather than American Fidelity Life and would thus ensure that the Reorganization was a tax-free exchange.[13]

The American Fidelity Life board drafted a supplemental agreement (the "Supplemental Agreement") to effectuate the issuance of Class B stock to American Fidelity Life in exchange for Investments Corp. and Little Sabine. The Supplemental Agreement provided that, on the effective date of the Merger, American Fidelity Life would transfer all of the Investments Corp. and Little Sabine stock to AMFI, and that AMFI would transfer its Class B stock with a fair value of $1,000 per share to

[11] 1982 Proxy Statement at 21, 29–31.

[12] Form S-14, Ex. B (Supplemental Agreement) at 53.

[13] Request for Rulings at 83–86.

American Fidelity Life.[14] The fair value of Investments Corp. and Little Sabine, and thus the number of AMFI Class B shares ultimately issued to American Fidelity Life, would be determined as of the effective date of the Merger Agreement.[15]

The Supplemental Agreement provided that the effective date of the Merger Agreement would be delayed until (i) the Reorganization was approved by the Florida Insurance Commission and (ii) the U.S. Internal Revenue Service issued a ruling that the Reorganization was a tax-free transaction.[16] The Supplemental Agreement also provided that if a favorable ruling from the IRS on the tax-free nature of the Reorganization was not received before December 1, 1982, the transaction could proceed if the Company's accountants formally opined that the transaction would be tax-free.[17]

On February 19, 1982, Peat Marwick submitted a Request for Rulings seeking the IRS's determination that the Reorganization was tax-free.[18] The Request for Rulings attached the balance sheet of American Fidelity Life as of December 31, 1981, and the balance sheets of Investments Corp. and Little Sabine as of February 17, 1982.[19]

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[14] Supplemental Agreement at 53.

[15] *Id.*

[16] *Id.* at 52.

[17] *Id.*

[18] Request for Rulings at 81, 85–86.

[19] *Id.*, Exs. A–C at 89–91.

On March 12, 1982, American Fidelity Life's board held a special meeting where it approved the Reorganization.[20] The American Fidelity Life board also formed AMFI, approved AMFI's bylaws and charter, approved the Merger Agreement and Supplemental Agreement, and resolved that the Merger Agreement and Supplemental Agreement be submitted for stockholder approval at a May 17, 1982 annual meeting.[21]

On the same day, the newly created AMFI board of directors (the "Board") held its first meeting to approve the Company charter, bylaws, and form of stock certificates.[22] Germane to this litigation, the Company's charter authorized the issuance of 1,700,000 shares of Class A voting stock and 20,000 shares of Class B non-voting stock.[23] The charter also provided that Class B stockholders were entitled to a $1,000-per-share liquidating preference in the event of any liquidation, dissolution, or winding-up of the Company.[24]

The Board approved the Merger Agreement and the Supplemental Agreement and formed the subsidiary that would merge with American Fidelity Life in the

[20] JX-9 at 1–2.

[21] *Id.*

[22] JX-8 at 1–2.

[23] JX-7 at 2.

[24] *Id.* at 3.

Merger.[25] The Board reviewed additional documents relating to the Merger, including a Form S-14 registration statement describing the Reorganization.[26]

On April 16, 1982, AMFI filed the Form S-14 with the U.S. Securities and Exchange Commission.[27] The Form S-14 included a proxy statement soliciting support for the Reorganization. That proxy statement was distributed to American Fidelity Life stockholders four days later.[28] The proxy statement described the Reorganization in detail and explained that, as part of the Reorganization, AMFI would have both Class A voting stock and Class B non-voting stock, and that AMFI would issue Class B stock to American Fidelity Life in exchange for all of Investments Corp.'s and Little Sabine's stock.[29] The proxy statement also stated that the Merger would be delayed pending the IRS ruling and that the exchange would have no effect on the value of AMFI Class A shares.[30]

American Fidelity Life stockholders approved the Merger, the Merger Agreement, and the Supplemental Agreement on May 17, 1982.[31]

The Board met again on July 26, 1982.[32] According to the meeting minutes, Charles Woodbury reported that the IRS had declined to rule on the tax-free nature

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[25] JX-8 at 4.

[26] *Id.* at 5.

[27] Form S-14 at 1.

[28] *See id.* at 4–5; 1982 Proxy Statement at 1.

[29] 1982 Proxy Statement at 19–21, 25.

[30] *Id.* at 21, 23.

[31] JX-13 at 1.

[32] JX-14 at 1.

of the Reorganization, but Peat Marwick had opined that the Reorganization was tax-free.[33] As such, the Board resolved to move forward with the Merger, making it effective as of July 30, 1982.[34]

The Board also resolved that Peat Marwick should help determine the value of Investments Corp.'s and Little Sabine's stock as of July 30, 1982 and authorized the Company to issue Class B stock to American Fidelity Life based on Peat Marwick's advice.[35] AMFI was unable to locate and produce the Peat Marwick valuation during this litigation.[36]

But the Request for Rulings stated that AMFI would issue 20,000 shares of AMFI Class B stock as a result of the Reorganization, implying that Peat Marwick valued Investments Corp. and Little Sabine at $20 million.[37] AMFI claims that after the July 26 Board meeting, AMFI issued the 20,000 shares to American Fidelity Life.

During this litigation, AMFI produced a photocopy of a stock certificated dated July 30, 1982 (the "Class B Stock Certificate").[38] The Class B Stock Certificate states that AMFI was authorized to issue 1,700,000 shares of Class A stock and 20,000 shares of Class B stock.[39] American Fidelity Life is listed as the registered holder of

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[33] *Id.*

[34] *Id.* at 1–2.

[35] *Id.* at 2–3.

[36] PTO § II ¶ 12.

[37] *See* Request for Rulings at 83; *id.*, Ex. E at 97.

[38] JX-241 at 1; *see also* Trial Tr. at 246:8–12 (Harrison) (confirming JX-241 is a copy).

[39] JX-241 at 1.

the 20,000 Class B shares, and the Class B Stock Certificate bears the signatures of Charles Woodbury and AMFI's then-secretary, Ruben E. Mauch.[40]

From 1983 onwards, AMFI included its Class B stock in its consolidated financial statements as "Retained Earnings."[41]

B. AMFI Undergoes A Reverse Stock Split In 1983.

In 1983, the Board proposed a 300:1 reverse stock split to reduce the number of stockholders and deregister the Company with the SEC.[42] On June 24, 1983, AMFI issued a proxy statement soliciting support for the transaction ahead of an August 4 annual meeting.[43]

The proxy statement explained to AMFI stockholders that they could "expect that there would be substantially less information about the Company available to them" as a result of the reverse stock split if it was approved.[44] The proxy statement also informed AMFI stockholders that AMFI would be authorized to issue up to 5,667 Class A shares and 20,000 Class B shares after the reverse stock split.[45]

The proxy statement did not mention the issuance of Class B shares to American Fidelity Life or the effect of the reverse stock split on Class A stock relative

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[40] *Id*.

[41] *See, e.g.*, JX-53 at 6, 9, 21; JX-58 at 9, 12, 25; JX-240 *passim*; *see also* Trial Tr. at 257:2–267:14 (Harrison); Pugh Dep. Tr. at 44:15–45:11, 48:1–9.

[42] JX-18 at 16–17.

[43] *Id.* at 1.

[44] *Id.* at 22.

[45] *Id.* at 3.

to Class B stock.[46] AMFI's stockholders voted to approve the reverse stock split on August 4, 1983.[47]

C. American Fidelity Life Transfers Class B Stock To The Hotel Subsidiaries In 1993 Or 1994.

Defendant Carol Harrison was an accountant for American Fidelity Life from 1977 to 1981.[48] After a brief leave, she returned as treasurer of American Fidelity Life in 1984 and stayed until she retired in 2017.[49] She did not work for American Fidelity Life, AMFI, or any of their affiliates during the Reorganization or reverse stock split.

As American Fidelity Life's treasurer, Harrison prepared AMFI's consolidated financial statements and registration statements.[50] In 1993 or 1994, Harrison was reviewing the work papers of an accountant that had prepared AMFI's financial statements the previous year.[51] She saw a line item on AMFI's unconsolidated financial report showing Class A and Class B shares.[52] Unaware of the existence of Class B shares, she spoke to other AMFI officers about the line item, and the other officers stated that Class B shares were issued in connection with AMFI's formation.[53]

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[46] *Id.* at 17, 22–23.

[47] JX-19 at 1.

[48] Trial Tr. at 239:7–11 (Harrison).

[49] *Id.* at 239:16–23, 241:17–19 (Harrison).

[50] *Id.* at 240:12–22 (Harrison).

[51] *Id.* at 244:16–23, 245:11–19 (Harrison).

[52] *Id.* at 245:11–19 (Harrison).

[53] *Id.* at 247:10–17, 248:11–21 (Harrison).

At the home offices of American Fidelity Life, Harrison searched a locked room containing stock certificates for AMFI and the Hotel Subsidiaries.[54] Inside a fireproof file cabinet, she found a manila folder containing the Class B Stock Certificate.[55]

After finding the Class B Stock Certificate, Harrison circled back to other AMFI officers to understand the background concerning the Class B stock.[56] She then reviewed microfilm of the Hotel Subsidiaries' general ledgers and balance sheets and discovered ledger entries totaling slightly over $20 million, which was the implied value of the shares that AMFI transferred to American Fidelity Life as reflected on the Class B Stock Certificate.[57]

Not understanding the entries, Harrison contacted Saltmarsh, Cleaveland & Gund, the accounting firm that prepared them.[58] Saltmarsh accountant Ben Stevens investigated the firm's work papers and explained to Harrison that the entries were related to the Hotel Subsidiaries' acquisition of "Class A or Class B stock" from American Fidelity Life.[59]

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[54] *Id.* at 247:5–17, 249:16–21 (Harrison).

[55] *Id.* at 246:2–247:24 (Harrison); *see also* JX-241. Though JX-241 is a photocopy, Harrison credibly testified that the copy accurately reflects the stock certificate she found. Trial Tr. at 246:2–247:7 (Harrison).

[56] *Id.* at 248:11–21 (Harrison); *see also* JX-234 at 1.

[57] Trial Tr. at 249:6–250:13 (Harrison).

[58] *Id.* at 250:18–251:4 (Harrison).

[59] *Id.* at 251:7–15, 252:6–12 (Harrison). Stevens has since passed away. *Id.* at 251:5–6 (Harrison).

Stevens directed Saltmarsh to make correcting entries in the Hotel Subsidiaries' ledgers reflecting the Class B stock holdings. As of April 1, 1994, Saltmarsh included the Class B stock on the Hotel Subsidiaries' balance sheets.[60]

D. American Fidelity Life Formally Assigns The Class B Stock To The Hotel Subsidiaries In 2016.

Around 2014 or 2015, the Hotel Subsidiaries engaged a new auditor, Warren Averett, LLC.[61] In June 2016, Warren Averett emailed American Fidelity Life's assistant treasurer Rebecca Healer and her coworker Sean Webster to request additional supporting documentation for the transfer of AMFI's Class B stock to the Hotel Subsidiaries.[62] At the time, the only documentation Warren Averett had was an email attachment with a photocopy of the Class B Stock Certificate and a sticky note on the document describing the allocation of those shares to the Hotel Subsidiaries: 5,000 shares to Little Sabine; 2,000 shares to Dunes Motel; 7,000 shares to Holi; and 6,000 shares to T.B.H.[63]

Warren Averett asked whether there was any formal documentation reflecting the transfer of AMFI Class B stock from American Fidelity Life to the Hotel Subsidiaries.[64] Webster replied, explaining that:

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[60] *Id.* at 251:16–22, 274:5–13, 462:24–463:11 (Harrison); *see, e.g.*, JX-234 at 3–7 (Little Sabine 1994 general ledger reflecting $5 million investment in stock).

[61] Trial Tr. at 574:12–16 (M. Woodbury); *see, e.g.*, JX-192 at 1.

[62] JX-67 at 4.

[63] *See id.* at 2–4; JX-68 at 2. The stock certificate and note appear to have been produced as JX-17, but JX-17 was not authenticated during this litigation, and Defendants do not rely on it.

[64] JX-67 at 4.

> [American Fidelity Life] assumed the Mortgage in '82 for Little Sabine, but they did not have the Cash-on-Hand. At the time the determination was made to [debit] Surplus and [credit] Mortgage. Later in '94 [Harrison] with the assist [*sic*] of [Stevens] from Saltmarsh made the determination that a correcting entry had to be made; [debit] Investments-Stock and [credit] Special Contributions (previously 'Surplus'). As of 2002 Little Sabine showed an Asset balance in Loan Costs (previously 'Investment-Stock') for $5M (as per the previous attachment break-out). Aside from account names nothing has changed in terms of monetary value or classification since '94.
>
> Additionally, all the Class B Stock transactions [Mortgage Loans] [*sic*] in question during '82, along with the correction/treatment, were handled in the same manner unilaterally for all our hotel properties that were involved in [the] '94 Saltmarsh entries.[65]

Webster attached Little Sabine's 1994 balance sheet showing a $5 million investment in stock, as well as Little Sabine's 2002 general ledger showing $5 million in "Loan Costs."[66] Healer also opined:

> In 1982 Stock was issued to [American Fidelity Life] and an entry was made to the hotel books for loans to assist the hotels[.]
>
> . . .
>
> In 1994, 12 years later, [Harrison] and [Stevens] (from Saltmarsh) researched and determined the entry was incorrect in 1982 because it dealt with stock. The following entry was performed which in effect reversed the Special Contribution entry and placed the [debit] side into the Investment in Stock account because stock was given as a loan.

[65] JX-63 at 1.

[66] *Id.* at 3–4.

> Over the years, the loan was paid back by the hotels. Technically, the hotels bought the stock over time by repaying their loan.[67]

Healer also noted that, to her and Webster's knowledge, there were no stock certificates reflecting the transfer or meeting minutes reflecting the transaction.[68]

After Webster and Healer provided these explanation to Warren Averett, the accounting firm replied confirming that their understanding was that the 20,000 shares of AMFI's Class B stock had been transferred from American Fidelity Life to the four Hotel Subsidiaries.[69] Warren Averett also requested that the Hotel Subsidiaries obtain "some proof of legal ownership" of the Class B stock.[70] Warren Averett suggested the Hotel Subsidiaries confer with their legal counsel on the best method of obtaining the documentation.[71]

Harrison then reached out to American Fidelity Life's counsel, requesting that she "prepare a simple assignment or whatever would accomplish the transfer legally from American Fidelity Life" to the Hotel Subsidiaries.[72] Counsel emailed Harrison, asking when the Class B stock was actually assigned to the Hotel Subsidiaries.[73]

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[67] JX-67 at 3–4.

[68] *Id.* at 3.

[69] *Id.* at 2.

[70] *Id.*

[71] *Id.*

[72] JX-68 at 1–2.

[73] *Id.* at 1.

Harrison replied, "April 1, 1994," as that was the date that Saltmarsh included the Class B stock on the Hotel Subsidiaries' balance sheets.[74]

Counsel created a document stating that American Fidelity Life lacked the documentation to confirm the transfer of AMFI's Class B stock to the Hotel Subsidiaries and confirming that the stock was transferred for value on or about April 1, 1994, effective as of the same date.[75] The Stock Assignment was signed and notarized by American Fidelity Life's president, Jack Yancey, on August 23, 2016.[76]

E. Class B Stock Appears On AMFI's 2019 Financials.

Two years later, Defendant Carolyn Pugh became American Fidelity Life's treasurer and was tasked with preparing AMFI's financial statements.[77] She was aware that AMFI's Class B stock had been accounted for in retained earnings and historically had not been broken out.[78] But she made the determination that AMFI's Class B stock should appear separately on AMFI's financial statements, like preferred shares.[79] Thus, AMFI's Class B stock was listed separately on its financial statements for the first time in 2019.[80]

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[74] *Id.*; Trial Tr. at 274:3–13 (Harrison).

[75] JX-28 ("Stock Assignment") at 1.

[76] *Id.* at 2; Yancey Dep. Tr. at 49:13–50:13.

[77] Pugh Dep. Tr. at 12:11–19, 14:8–9.

[78] *Id.* at 44:21–45:5, 48:1–9.

[79] *Id.* at 42:14–43:8.

[80] JX-97 at 2.

F. Plaintiff Learns Of AMFI's Class B Stock For The First Time Over Twenty Years After Acquiring Class A Stock.

Plaintiff Mitchell Partners owns shares of Class A AMFI stock. Plaintiff has been a record stockholder of AMFI since 1998[81] and has continuously owned Class A shares since then.[82] Plaintiff learned of the existence of the Class B stock from AMFI's 2019 financial statements.[83] On October 7, 2020, Plaintiff served an inspection demand under 8 *Del. C.* § 220 to inspect AMFI's stock ledger and investigate the Class B stock.[84] In response, AMFI offered to produce a series of stock cards for inspection.[85] The stock cards did not include any record of the Company's Class B stock.[86]

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[81] PTO § II ¶ 2; JX-35; Dkt. 108 ("Second Am. Compl.") ¶ 8 (alleging that Plaintiff has owned AMFI Class A common stock since June 19, 1998). Plaintiff stated in briefing that it became a stockholder of record in 1996. Dkt. 363 ("Pl.'s Post-Trial Opening Br.") at 15. Plaintiff's representative testified at trial that it first acquired Class A shares in 1989. Trial Tr. at 14:15–16:6 (Mitchell) (describing the "big black book" marked as JX-236 as the ledger maintained by Plaintiff's general partner and the entry "dated September 14, 1989" as follows: "The B is for buy, one share at 21,500 per share, at a total cost, including broker fee, of 21,752."). Nonetheless, Plaintiff stipulated that, as alleged in the Second Amended Complaint, it has owned Class A shares since June 19, 1998. PTO § II ¶ 2. The court accepts the stipulated fact as true.

[82] *Id.*; JX-236; Trial Tr. at 16:7–12 (Mitchell).

[83] *See* Trial Tr. at 19:15–20:18 (Mitchell).

[84] Second Am. Compl., Ex. A at 2, 5, 8–9.

[85] *See id.*, Ex. B at 3 (stating that AMFI "does not maintain a current stock list in the regular course of its business" but noting that "[t]he Company does maintain stockholder cards, and those will be made available for inspection").

[86] *See id.*; PTO § II ¶ 14.

G. Litigation Ensues.

On November 13, 2020, Plaintiff initiated this class action, asserting two counts arising from AMFI's allegedly deficient stock ledger.[87]

Defendants moved for summary judgment on both claims in the original complaint on May 23, 2022.[88] Before that motion was resolved, Plaintiff twice amended its complaint, both times retaining the two counts subject to Defendants' motion.[89]

The operative complaint is the Second Amended Verified Class Action Complaint, which contains five counts:

- In Count I, Plaintiff alleges that AMFI failed to keep and maintain a valid stock ledger.[90] Plaintiff seeks an injunction requiring AMFI to maintain its stock ledger in compliance with the Delaware General Corporation Law.[91]
- In Count II, Plaintiff alleges that Yancey, Pugh, Harrison, Barbara Woodbury, and Marilyn Woodbury (the "Director Defendants") breached their fiduciary duties by failing to cause AMFI to keep and maintain a valid stock ledger.[92]
- In Count III, Plaintiff seeks three alternative forms of declaratory relief as to AMFI and the Hotel Subsidiaries: (i) that no Class B Shares are issued or outstanding; (ii) that if the Class B Shares were issued, the issuance was defective and they are void; or (iii) if the Class B Shares

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[87] Dkt. 1.

[88] Dkt. 30.

[89] *See* Dkt. 93; Second Am. Compl.

[90] Second Am. Compl. ¶¶ 55–60 (on page 47; paragraph numbers occasionally repeat throughout the Second Amended Complaint).

[91] *Id.* ¶ 60 (on page 47).

[92] *Id.* ¶¶ 61–64 (on pages 47–48).

were validly issued, the transfers of the shares to the Hotel Subsidiaries constituted waste.[93]

- In Count IV, Plaintiff claims that the Director Defendants breached their fiduciary duties with respect to the invalid issuance and conveyance of the Class B Shares.[94]

- In Count V, pled in the alternative if the Class B Shares are found to be validly issued and outstanding, Plaintiff seeks declaratory relief against all defendants and asserts breaches of fiduciary duty against Defendants Barbara and Marilyn Woodbury, both on the ground that the proxy statement AMFI issued in connection with the reverse stock split made material omissions related to the Class B shares.[95]

H. AMFI Corrects Its Stock Ledger To Include The Class B Shares.

Shortly after Plaintiff filed the Second Amended Complaint, a court-appointed Special Magistrate issued a report and recommendation on Defendants' motion for summary judgment, concluding that Delaware law requires a company's stock ledger to account for all of its stock, including non-voting shares, and that AMFI admitted that it did not have any stock cards reflecting issuances and transfers of Class B shares.[96] In a letter decision dated July 3, 2024 (the "Letter Decision"), the court adopted the Special Magistrate's recommendation in large part, denying Defendants' motion for summary judgment on both counts.[97]

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[93] *Id.* ¶¶ 65–71.

[94] *Id.* ¶¶ 72–74.

[95] *Id.* ¶¶ 75–79.

[96] Dkt. 109 at 9–12.

[97] Dkt. 131 at 6–7. The court declined to grant summary judgment for Plaintiff on Count I, as the Special Magistrate recommended, because Plaintiff had not moved for that relief. *Id.* at 7.

The Letter Decision concluded that AMFI's stock ledger was deficient because it failed to include "(i) stock cards for Class B stockholders; (ii) stock cards for inactive stockholders; (iii) all stock cards associated with each active Class A stockholder; and (iv) the full names and addresses of all active Class A stockholders."[98]

After the court's ruling, the Company endeavored to correct these deficiencies. Regarding the Class B shares, Victoria Corporaal, AMFI's stock transfer agent, created a control card for the Class B shares and made ledger sheets for each of the entities which owned Class B stock.[99] Corporaal had always maintained the "inactive stockholder cards" for the Class A shares, but she had not included them in the ledger.[100] Corporaal copied and produced all the inactive stock cards.[101] She also retyped the active cards to ensure that they were legible and included the names and addresses of the stockholders on each card, and she copied and produced all old cards and cancelled stock cards.[102] Corporaal included her ledger sheets (or work papers) she uses as a backup for the ledger cards, even though she does not consider this part of the stock ledger.[103]

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[98] *Id.* at 2–3 (quoting Dkt. 109 at 10–11).

[99] Trial Tr. at 156:7–14 (Corporaal).

[100] *Id.* at 156:20–23 (Corporaal).

[101] *Id.* at 156:24–157:6 (Corporaal).

[102] *Id.* at 157:7–158:8 (Corporaal); *see generally* JX-251; JX-252.

[103] Trial Tr. at 159:15–160:9 (Corporaal); JX-253. Corporaal testified that she inadvertently failed to copy one page of the control card. Corporaal Dep. Tr. at 40:22–41:20 (Day 2); Trial Tr. at 158:15–159:7 (Corporaal). Plaintiff claims that Defendants

I. Litigation Continues.

This litigation moved forward in fits and starts. While the court resolved Defendants' motion for summary judgment, Defendants moved to dismiss Counts III through V of the Second Amended Complaint on October 13, 2023.[104] In July 2024, the court rejected Count III's claim that the Class B share issuance constituted waste and dismissed Count V as to Pugh and Harrison.[105]

Plaintiff moved for summary judgment on Count I of the Second Amended Complaint on October 7, 2024. Plaintiff argued that the Letter Decision's finding that AMFI's stock ledger was inadequate constituted the law of the case.[106] Defendants did not produce an updated stock ledger during briefing on that motion.[107] While Plaintiff's first motion for summary judgment was pending, Plaintiff also moved for summary judgment on Count III on January 27, 2025.[108]

On July 28, 2025, the court granted summary judgment for Plaintiff on Count I, finding that Defendants did not show that there was a dispute of material fact as to the sufficiency of AMFI's stock ledger.[109] The court denied Plaintiff's motion for

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have purposefully withheld this page. Pl.'s Post-Trial Opening Br. at 6–7. The record does not support that accusation. *See* Corporaal Dep. Tr. at 40:22–41:20 (Day 2).

[104] Dkt. 111.

[105] Dkt. 132 (*Mitchell P'rs, L.P. v. AMFI Corp.*, 2024 WL 3289389, at *1 n.5, 8 (Del. Ch. July 3, 2024)).

[106] Dkt. 143 at 25–26.

[107] *See* Dkt. 230 (*Mitchell P'rs, L.P. v. AMFI Corp.*, 2025 WL 2105837, at *4 (Del. Ch. July 28, 2025)).

[108] Dkt. 169.

[109] *Mitchell P'rs*, 2025 WL 2105837, at *4–5.

summary judgment on Count III in the same decision, finding that there was a dispute of material fact as to whether AMFI issued Class B shares in 1982.[110] Although Plaintiff won on its claim for declaratory relief under Count I, Plaintiff continued to pursue a permanent injunction under Count I to correct the ledger.[111]

Plaintiff moved for class certification on September 4, 2025. Plaintiff sought to certify as a class any Class A stockholders not named as defendants as to Counts I and III, and as to Counts IV and V to the extent the court awards damages resulting from the issuance of Class B shares.[112] Defendants opposed the motion.[113] The court held the motion in abeyance pending trial.[114]

After sprawling discovery and copious motion practice, the court held trial on March 30, April 1, and April 2, 2026.[115] The parties completed post-trial briefing on June 30.[116] The joint schedule of evidence was submitted on July 16 and the court heard oral argument on July 22.[117]

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[110] *Id.* at *5–6.

[111] PTO § IV ¶ 1.

[112] Dkt. 235 at 2–3.

[113] Dkt. 247.

[114] Dkt. 300 at 13:17–23.

[115] Dkt. 355.

[116] Dkt. 368 ("Pl.'s Post-Trial Reply Br.").

[117] Dkts. 369, 371.

II. LEGAL ANALYSIS

Plaintiff seeks relief in connection with Counts I and II (the "Stock Ledger Claims") and Counts III, IV, and V (the "Class B Claims"). The analysis takes these claims in turn.

A. The Stock Ledger Claims

Counts I and II comprise the Stock Ledger Claims. In Count I, Plaintiff claims that the Company breached its statutory obligation to maintain a stock ledger. In Count II, Plaintiff claims that the Director Defendants breached their fiduciary duties by letting that happen.

The court granted summary judgment in Plaintiff's favor on Count I, finding that the stock ledger did not comply with Delaware law.[118] The Company then endeavored to correct the deficiencies identified by the court, arguing that it effectively mooted Count I.[119]

Plaintiff continued to press for relief on Count I at trial, arguing that AMFI's stock ledger remains deficient and that "[o]nly a permanent injunction has any realistic chance at ensuring future compliance."[120] Plaintiff does not state or apply any legal standard as to its pursuit of a permanent injunction. Plaintiff makes several factual claims, some of which are unsupported, describing AMFI's stock

[118] *Mitchell P'rs*, 2025 WL 2105837, at *5.

[119] Dkt. 365 at 28–31 (summarizing remedial efforts).

[120] Pl.'s Post-Trial Opening Br. at 8.

ledger.[121] For example, Plaintiff contends that the control card is incomplete due to a missing page.[122] But as Defendants proved at trial, that omission was due to a photocopying error committed during discovery.[123] And as to the legal standard, Plaintiff summarily states that "[t]his is intentional conduct and a breach of duty" and that "[o]nly a permanent injunction has any realistic chance at ensuring future compliance."[124] This conclusory argument is insufficient to support Plaintiff's claims for injunctive relief under Count I.[125]

Plaintiff's Count II claim for breach of fiduciary duty due to the Director Defendants' failure to maintain a stock ledger similarly fails. Plaintiff argues that Count II should be subject to enhanced scrutiny because the Director Defendants harbored conflicts in connection with maintaining the ledger, but Plaintiff does not adequately or convincingly identify those conflicts.[126]

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[121] *See id.* at 5–8 (describing the stock ledger as "a series of backdated entries" and "incomplete," and arguing that "[d]ifferent 'practices' exist for the different classes of stock" and "[n]othing is in writing").

[122] *Id.* at 6.

[123] Trial Tr. at 158:18–159:9 (Corporaal).

[124] Pl.'s Post-Trial Opening Br. at 8.

[125] *See* Dkt. 137 at 4 n.10 (citing *Merck & Co., Inc. v. Bayer AG*, 2023 WL 2751590, at *15 (Del. Ch. Apr. 3, 2023), *aff'd*, 308 A.3d 1190 (Del. 2023) (TABLE), for the proposition that if a party "intended to preserve [an] argument, it should have addressed it in a more meaningful way," and citing *Macrophage Therapeutics, Inc. v. Goldberg*, 2021 WL 2585429, at *4 (Del. Ch. June 23, 2021), for its finding that the defendant's failure to cite any authority in support of his legal argument constituted a waiver of the issue).

[126] Pl.'s Post-Trial Opening Br. at 46–48.

Plaintiff alternatively argues that Count II states an oversight claim under *Caremark*.[127] But *Caremark* requires a showing of bad faith, which Plaintiff has failed to prove.[128] Delaware law does not provide for any specific form or manner in which a stock ledger must be kept, nor did the Letter Decision prescribe one.[129] The Director Defendants testified that AMFI has always had a transfer agent and kept ledger cards kept reflecting its shares.[130] Marilyn Woodbury testified that she was not aware nonvoting shares needed to be recorded on the ledger, as AMFI did not need to give their holders proxies or notice of stockholder meetings.[131] When the court identified deficiencies with the ledger through the Letter Decision, Marilyn promptly made Corporaal aware of the issues, which she and Corporaal attempted to correct.[132] The record reflects that the Director Defendants made every effort to correct any deficiencies in the ledger after receiving the Letter Decision.

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[127] *Id.* at 47–48 (citing *In re Caremark Int'l Inc. Deriv. Litig.*, 698 A.2d 959, 971 (Del. Ch. 1996)).

[128] *Stone v. Ritter*, 911 A.2d 362, 370 (Del. 2006) ("[A] showing of bad faith conduct . . . is essential to establish director oversight liability . . . .").

[129] Dkt. 131; 8 *Del. C.* § 219; *id.* § 224 ("Any records administered by or on behalf of the corporation . . . including its stock ledger . . . may be kept on, or by means of, or be in the form of, any information storage device, method, or 1 or more electronic networks or databases . . . provided that the records so kept can be converted into clearly legible paper form within a reasonable time . . . .").

[130] Trial Tr. at 142:8–146:2, 235:11–15 (Corporaal); *id.* at 281:21–282:15 (Harrison); *id.* at 590:20–592:1 (M. Woodbury).

[131] *Id.* at 595:4–9, 599:9–601:21 (M. Woodbury).

[132] *Id.* at 154:22–158:8 (Corporaal); *id.* at 283:14–24 (Harrison); *id.* at 592:6–593:11 (M. Woodbury).

Plaintiff is not entitled to further relief in connection with the Stock Ledger Claims.

B. The Class B Claims

Counts III, IV, and V comprise the Class B Claims. In what remains of Count III, Plaintiff seeks a declaratory judgment that (i) no Class B shares are issued or outstanding, or (ii) if the Class B shares were issued, the issuance was defective and they are void.[133] In Count IV, Plaintiff claims that the Director Defendants breached their fiduciary duties when issuing and conveying the Class B shares.[134] In Count V, pled in the alternative if the Class B shares are found to be validly issued and outstanding, Plaintiff claims that the Director Defendants breached their fiduciary duties because AMFI made material omissions when issuing a proxy statement in connection with the reverse stock split.[135]

The parties' dispute about Class B shares centers on Count III—whether Class B shares were issued, are outstanding, or are otherwise void. Resolving the questions of whether and when the Class B shares were issued has knock-on effects for Counts IV and V. That is because Plaintiff pursues Counts IV and V as class and derivative claims.[136] Whether Plaintiff can serve as a class representative or pursue derivative claims depends in part on whether Plaintiff owned shares at the time of the alleged

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[133] Second Am. Compl. ¶¶ 65–71.

[134] *Id.* ¶¶ 72–74.

[135] *Id.* ¶¶ 75–79.

[136] Dkt. 235 at 2–3.

injury. This analysis thus focuses on the issues raised in Count III before turning to the implications of that analysis on Counts IV and V.

1. Count III: Whether And When AMFI Issued Class B Shares

The key issue posed by Count III is whether and when AMFI validly issued Class B shares. At trial, Defendants introduced evidence to show that AMFI issued Class B shares in 1982. Plaintiff primarily responds with arguments challenging the legal sufficiency of Defendants' evidence.

a. Defendants' Evidence Of Stock Issuance

In support of a finding that AMFI issued Class B shares in 1982, Defendants introduced the following evidence: first, Board, transactional, and regulatory materials; second, the Class B Stock Certificate; and third, testimony and documents reflecting the relevant actors' actions after the events in 1982.

Defendants' first category of evidence provides the strongest support for a finding that AMFI issued Class B shares in 1982. Sorting through this category chronologically begins with AMFI's charter. It was submitted to the Secretary of State on February 18, 1982 and authorizes the issuance of 20,000 Class B shares.[137]

On February 19, 1982, Peat Marwick submitted the Request for Rulings, outlining the Reorganization, to the IRS. The document details that in exchange for

[137] JX-7 at 1–2.

all of the capital stock in Investments Corp. and Little Sabine, the Company would transfer 20,000 Class B shares to American Fidelity Life.[138]

The minutes of the Board's first meeting, held on March 12, 1982, reflect that the Board approved and adopted the Supplemental Agreement.[139] The Supplemental Agreement memorializes the transaction outlined in the Request for Rulings: AMFI would issue Class B stock valued at $1,000 per share to American Fidelity Life in exchange for the capital stock of Investments Corp. and Little Sabine.[140] It also states the parties would mutually agree upon the fair value of the capital stock as of the Merger's effective date.[141]

The March 12 minutes further reflect that the Board took additional steps to effectuate the Reorganization. The Board passed a resolution that "authorized and

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[138] Request for Rulings at 83 ("[American Fidelity Life] will transfer all of the common stock which it presently owns in [Investments Corp. and Little Sabine] to [AMFI] in exchange for 20,000 shares of Class B" AMFI stock.), 84 ("The fair market value of the [AMFI] Class B non-voting common stock . . . will be approximately equal to the fair market value of the stock of [Investments Corp. and Little Sabine] surrendered in exchange therefor."); *id.*, Ex. E at 97 ("[AMFI] will issue 20,000 shares of its Class B . . . stock having a liquidation value of $1,000.00 per share to [American Fidelity Life] in exchange for the [Investments Corp. and Little Sabine] stock received."), 98 ("Immediately after the transaction . . . 20,000 shares of [AMFI] Class B non-voting common stock will be outstanding, issued to [American Fidelity Life] for property," and "[i]mmediately after the transaction, [American Fidelity Life] will own 20,000 shares (or 100%) of [AMFI] Class B non-voting common stock, received by [American Fidelity Life] in exchange for property (the [Investments Corp. and Little Sabine] stock).").

[139] JX-8 at 4.

[140] Supplemental Agreement at 53.

[141] *Id.*

approved" the "corporate action required or contemplated by" the Reorganization.[142] The Board also reviewed and discussed the Form S-14 before passing a resolution to file it with the SEC and state regulators.[143] The Form S-14 includes as exhibits the Supplemental Agreement, AMFI's charter, and the Request for Rulings.[144] The Form S-14 also states that the Class B stock "was created solely to allow the transfer" of Investments Corp. and Little Sabine and that, after the Merger, American Fidelity Life would hold all of AMFI's Class B shares.[145]

American Fidelity Life stockholders approved the Reorganization in May 1982.[146] AMFI's board met on July 26.[147] The minutes of that meeting state that the Board resolved to complete the Merger, effective July 30.[148] The Board then discussed the value of the Investments Corp. and Little Sabine capital stock, unanimously resolving that the value "be determined as of July 30, 1982, based upon advice from" Peat Marwick.[149] The Board then passed a unanimous resolution which "authorized and directed" the issuance of Class B stock to American Fidelity Life "in accordance with the Supplemental Agreement."[150]

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[142] JX-8 at 4.

[143] *Id.* at 5.

[144] Form S-14 at 52–60, 81–103.

[145] *Id.* at 28.

[146] JX-13 at 2.

[147] JX-14 at 1.

[148] *Id.* at 2.

[149] *Id.* at 3.

[150] *Id.*

This first category of evidence demonstrates that the Board issued Class B shares to American Fidelity Life on July 30, 1982.

Defendants' second piece of evidence is the Class B Stock Certificate.[151] On its face, the Class B Stock Certificate reflects that the Company issued 20,000 shares of Class B stock on July 30, 1982.[152] Plaintiff objects to the admissibility of the Class B Stock Certificate, challenging its authenticity on numerous grounds.[153] Delaware law prohibits the use of a duplicate to stand for an original when the original's authenticity is in question.[154]

"The question of authenticity is merely a question of whether the document in question is what the proponent claims."[155] To raise a question of genuine authenticity, Plaintiff "would need to present facts or testimony sufficient to bring

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[151] Although a stock certificate is frequently the exclusive method for determining whether stock was issued, the absence of a stock certificate does not prove that stock was not issued. *Cf. Lynam v. Gallagher,* 526 A.2d 878, 883 (Del. 1987) ("Stock certificates are mere evidence of property." (citing *Baker v. Bankers' Mortg. Co.*, 135 A. 486, 487–88 (Del. Ch. 1926), *aff'd*, 141 A. 277 (Del. 1927))).

[152] JX-241 at 1.

[153] Pl.'s Post-Trial Opening Br. at 65; *see also* Pl.'s Post-Trial Reply Br. at 22–24.

[154] D.R.E. 1002–03.

[155] *Graves v. State*, 2006 WL 496140, at *2 (Del. Super. Feb. 2, 2006) (citing D.R.E. 901(a)), *aff'd*, 905 A.2d 746 (Del. 2006).

the issue into contention."[156] A "person with sufficient knowledge of the matter" can authenticate a record "without requiring absolute verification" of its accuracy.[157]

At trial, Defendants called witnesses with knowledge of the authenticity of the Class B Stock Certificate.[158]

- Corporaal saw the original document through the course of her work and testified that she observed a raised seal and could "feel where the pen went through the paper" for Mauch's signature.[159] Corporaal testified that both Charles Woodbury and Mauch's signatures were original.[160] Corporaal was familiar with Charles's signature from their work together and had seen checks that he signed.[161]

- Harrison testified that JX-241 was a copy of the original Class B Stock Certificate she discovered.[162] She also testified that she saw signatures on the document.[163] She stated that she believed the signatures to be

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[156] *Id.* Plaintiff presents no facts or testimony questioning authenticity. *See* Pl.'s Post-Trial Opening Br. at 65 (challenging the "appearance (i.e. [*sic*] with detachable tear-off), lack of countersignature, lack of support for issuing 20,000 [Class] B shares, its mysterious disappearance for over two decades, the lack of chain of custody until its re-appearance in a file not assigned to any entity, its absence from any property records or financial statements, and the lack of knowledge of AMFI's transfer agent as to its existence").

[157] *Estate of Osborn v. Kemp*, 2009 WL 2586783, at *2 (Del. Ch. Aug. 20, 2009) (citing *Graves*, 2006 WL 495140, at *2).

[158] Trial Tr. at 162:10–163:1 (Corporaal) ("Q. Can we turn to, in your book, JX 241. . . . Q. Have you seen the original of this document? A. I have seen the original."); *id.* at 568:18–569:3 (M. Woodbury) ("Q. Can we pull up JX 241. . . . What is this? A. This is the original stock certificate signed by my father, Charles P. Woodbury, and Ruben E. Mauch, for 20,000 shares of Class B nonvoting common stock. Q. And who has the original of this document? A. I do.").

[159] *Id.* at 163:1–17 (Corporaal).

[160] *Id.* at 207:14–16 (Corporaal).

[161] *Id.* at 210:8–12 (Corporaal).

[162] *Id.* at 246:8–12 ("ATTORNEY ZWALLY: Can we pull up JX 241, please. Q. Is this a copy of the AMFI -- the Class B share certificate that you saw? A. Yes, it is."), 469:2–11 (Harrison).

[163] *Id.* at 248:1–3 (Harrison).

original, because she recognized Charles's and Mauch's signatures, and neither individual had a signature stamp.[164]

- Marilyn Woodbury also testified to the presence of a raised seal and feeling the impression Mauch's signature created.[165] Marilyn recognized her father's and Mauch's signatures on the document.[166]

This testimony was credible and supports finding that the Class B Stock Certificate is what Defendants claim. Thus, JX-241 is a properly admissible duplicate.

Defendants' last category of evidence concerns the actions of the Company, the Hotel Subsidiaries, American Fidelity Life, and their employees and advisors between 1982 and the start of litigation.

Harrison testified to her discovery in 1993 or 1994 of the Class B Stock Certificate and her resulting conversations with Saltmarsh. After Harrison located a stock certificate issuing Class B stock to American Fidelity Life and non-descript entries in the Hotel Subsidiaries' general ledgers, Saltmarsh advised her that correcting entries needed to be made to reflect the transfer of Class B stock from American Fidelity Life to the Hotel Subsidiaries.[167] And as of April 1994, Little Sabine's general ledger reflected a $5 million investment in stock.[168]

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[164] *Id.* at 248:1–10 (Harrison).

[165] *Id.* at 570:1–8 (M. Woodbury).

[166] *Id.* at 569:7–14 (M. Woodbury). Marilyn also testified that the pen used in each signature was consistent with Charles's and Mauch's respective preferences for felt-tip and ballpoint pens. *Id.* at 569:24–570:3 (M. Woodbury).

[167] *Id.* at 245:11–252:12 (Harrison).

[168] JX-234 at 6–7.

Plaintiff raises objections as to Harrison's credibility, primarily because before trial, Harrison responded to Plaintiff's interrogatories stating that she had no personal knowledge of the issuance and transfers of Class B stock.[169] But in those same responses, Harrison stated that she was "involved in some conversations" and was "aware, in early 1990, of discussions regarding the transfer of the Class B non-voting shares" but that she could not recall further detail.[170] Plaintiff argues that Harrison's testimony was improperly withheld during discovery, but Plaintiff provides no evidence that Harrison recalled the 1994 correcting entries earlier than when she testified to that process.[171] Harrison's earlier statements speak to the credibility of her memory; they are not a basis to wholly disregard her testimony.

Further evidence corroborates Harrison's testimony. The Stock Assignment created in 2016 and surrounding communications reflect that, by 1994, American Fidelity Life had transferred the Class B shares to the Hotel Subsidiaries. The Company's position in 2016 was that Class B shares were issued to American Fidelity Life on July 30, 1982 and then transferred to the Hotel Subsidiaries.[172] The Stock Assignment states that, effective April 1, 1994, American Fidelity Life transferred the Class B shares to the Hotel Subsidiaries.[173]

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[169] Pl.'s Post-Trial Opening Br. at 38–39; JX-246 at Resps. to Interrogs. 34, 38.

[170] JX-246 at Resps. to Interrogs. 34, 38.

[171] Pl.'s Post-Trial Opening Br. at 67–68. Plaintiff claims that Harrison has always remembered her conversations with Saltmarsh, but she did not testify to that effect. *See* Trial Tr. at 441:7–18 (Harrison).

[172] JX-67 at 2; s*ee also* JX-64 at 1–2.

[173] Stock Assignment at 1.

The Stock Assignment references the Class B Stock Certificate as proof that American Fidelity Life possessed the Class B shares to begin with.[174] If the Company never issued the shares to American Fidelity Life, there would have been nothing to transfer to the Hotel Subsidiaries as of 1994.

AMFI's public filings and financial statements likewise reflect that AMFI issued Class B stock before Plaintiff acquired Class A shares in 1998. From 1983 onwards, AMFI included the existence of its Class B stock in its consolidated financial statements under "Retained Earnings."[175] Since at least 1994, the audited financial statements for the Hotel Subsidiaries included Class B stock as retained earnings.[176] And AMFI has paid taxes on its Class B stock since at least 2017—before this litigation commenced.[177] Plaintiff does not meaningfully dispute the existence and validity of the Hotel Subsidiaries' financial statements or the Company's franchise tax reports.[178]

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[174] *Id.*

[175] *See, e.g.*, JX-53 at 6, 9, 21; JX-58 at 9, 12, 25; JX-240 *passim*; *see also* Trial Tr. at 257:2–267:14 (Harrison); Pugh Dep. Tr. at 44:15–45:11, 48:1–9.

[176] *See* Trial Tr. at 244:16–23 ("Q. Ms. Harrison, when did you first become aware of the existence of AMFI Corp. Class B stock? A. 1993 or '94. Q. And how did you become aware of the existence of the Class B stock? A. I was reviewing the work papers from the previous CPA that prepared them."), 252:1–256:24 (Harrison).

[177] JX-243 at 10.

[178] *See generally* Pl.'s Post-Trial Opening Br; Pl.'s Reply Br. Plaintiff claims that the Hotel Subsidiaries' audited financial statements were not prepared by independent auditors and that AMFI's franchise tax report is "irrelevant," but Plaintiff provides no support for either statement. Pl.'s Reply Br. at 30.

b. Plaintiff's Arguments Challenging The Sufficiency Of Defendants' Evidence

Plaintiff argues that the evidence introduced by Defendants is legally insufficient to show that AMFI issued Class B shares in 1982 because that evidence does not demonstrate compliance with the statutory requirements for share issuance. Plaintiff relies on Sections 151 through 153 of the DGCL, arguing that, as of 1982, those provisions established a non-delegable duty to fix the number of shares to be issued and the price to be paid.[179] First, Plaintiff argues that the Board impermissibly delegated the valuation to Peat Marwick.[180] Second, Plaintiff argues that Defendants provide no evidence that AMFI obtained a valuation from Peat Marwick to establish the number of shares to issue.[181] Third, Plaintiff argues that AFMI never received consideration for the Class B shares as of the effective date.[182] Each argument is unconvincing.

First, Plaintiff argues that the Board impermissibly delegated the responsibility of valuing the Class B shares to Peat Marwick.[183] Delaware law distinguishes between delegation and reliance. A board may not delegate board action in full to an advisor.[184] This includes "delegating a core function to someone

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[179] Pl.'s Post-Trial Opening Br. at 48 (citing *Field v. Carlisle Corp.*, 68 A.2d 817 (Del. Ch. 1949)).

[180] *Id.* at 48–49.

[181] *Id.* at 50.

[182] *Id.* at 54.

[183] *Id.* at 48–49.

[184] *West Palm Beach Firefighters' Pension Fund v. Moelis & Co.*, 311 A.3d 809, 841 (Del. Ch. 2024) ("[W]hen directors delegate a core task to another and bind

else and agreeing to be bound by that person's determination."[185] But a board may rely on advisors and "employ non-directors to assist them in arriving at the value to be placed on the property to be received in exchange for the corporation's stock."[186] "[R]eliance assumes knowledge" of the valuation.[187]

Plaintiff bases its delegation argument on language from the July 26, 1982 board minutes stating that the value of Investments Corp. and Little Sabine "should be determined" by Peat Marwick.[188] Plaintiff contends that Defendants admit an impermissible delegation occurred by stating that Peat Marwick "determined that 20,000 shares of Class B stock should be issued for the stock of [Investments Corp.] and Little Sabine, which it valued at over $20,000,000."[189]

The very documents on which Plaintiff relies undermine its factual argument. The July 26 board resolution states that the valuation would be "based upon advice" from Peat Marwick.[190] Further, the Supplemental Agreement approved at the first board meeting provided that the value of Investments Corp. and Little Sabine would

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themselves to accept the result, then they have eliminated their ability to exercise their own judgment. That violates [8 *Del. C.* §] 141(a).")

[185] *Id.* at 844.

[186] *Field*, 68 A.2d at 820.

[187] *Id.*

[188] Pl.'s Post-Trial Opening Br. at 18 (citing JX-14 at 3).

[189] *Id.* at 48–49 (quoting Dkt. 346 ("Defs.' Pre-Trial Brief") at 45). Plaintiff omits context around Defendants' statement, including that the Board relied on outside facts contained in the Supplemental Agreement and Request for Rulings. *See* Defs.' Pre-Trial Brief at 45.

[190] JX-14 at 3.

not be delegated to a third party, but rather would be determined by mutual agreement of AMFI, American Fidelity Life, and the AMFI merger subsidiary.[191] And the Supplemental Agreement reflects that the Company agreed that AMFI's Class B stock was to be valued at $1,000 per share and that the number of shares exchanged would be the capital stock value divided by 1,000.[192] Thus, by July 26, 1982, Peat Marwick was assisting the Board in the "determination of the capital stock" in accordance with the Supplemental Agreement.[193]

Second, Plaintiff argues that the Board actually did not obtain a valuation from Peat Marwick to rely on when the Board fixed the number of shares to issue. For this proposition, Plaintiff cites only Defendants' inability to produce Peat Marwick's valuation.[194]

Although Defendants could not produce the Peat Marwick valuation, which was presumably delivered to the Board in hardcopy in 1982, the facts suggest that the valuation *did* exist—not the opposite. Peat Marwick's Request for Rulings stated that AMFI would issue 20,000 shares of AMFI Class B stock to American Fidelity Life, implying Peat Marwick had valued the transaction at $20 million as of February 19, 1982.[195] Additional circumstantial evidence indicates that, with the help of advisors, the Board valued the capital stock at $20 million. The Form S-14 stated the

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[191] Supplemental Agreement at 53.

[192] *Id.*

[193] JX-14 at 3.

[194] Pl.'s Post-Trial Opening Br. at 50–51.

[195] *See e.g.*, Request for Rulings at 83; *id.*, Ex. E at 97.

Class B stock "was created solely to allow the transfer" of Investments Corp. and Little Sabine and that American Fidelity Life would hold all Class B stock after the Merger.[196] AMFI's charter authorized the issuance of up to 20,000 Class B shares, implying the Company expected to issue that many shares in order to purchase $20 million in capital stock.[197]

Third, Plaintiff challenges the issuance of Class B shares under Section 152(d) of the DGCL, which requires valid consideration for stock.[198] The relevant language of Section 152, then as now, provides that, in the absence of fraud, "the judgment of the directors as to the value" of any consideration for the issuance of stock "shall be conclusive."[199] The then-operative Section 153(a) stated that "[s]hares of stock with par value may be issued for such consideration, having a value not less than the par value thereof, as determined from time to time by the board of directors."[200] Further, the consideration "shall be paid in such form and in manner as the board of directors shall determine."[201]

But Plaintiff does not allege fraud, and Defendants have proven that the Board exercised its judgment to set the form and manner of consideration. The July 26,

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[196] Form S-14 at 28; *see also* 1982 Proxy Statement at 25.

[197] JX-7 at 2.

[198] Pl.'s Post-Trial Opening Br. at 54. The court notes that Section 152 was not split into subsections until 2022. *See* 83 Del. Laws ch. 377 § 3 (2022).

[199] 8 *Del. C.* § 152(d); 59 Del. Laws ch. 437 § 8 (1974).

[200] 57 Del. Laws ch. 148 § 10 (1969).

[201] 59 Del. Laws ch. 437 § 8 (1974).

1982 meeting minutes show that the Board unanimously approved the creation of Class B stock and its transfer to American Fidelity Life on July 26, 1982.[202] The minutes reflect that the Board issued those shares in exchange for stock in Investment Corp. and Little Sabine as outlined in the Supplemental Agreement.[203] This is conclusive as to the question of valid consideration. To the extent Plaintiff argues that AMFI did not timely receive the valid consideration that the Board determined, Plaintiff has failed to prove that contention.[204] Under AMFI's bylaws, the Class B Stock Certificate would not have issued without the timely payment of valid consideration.[205]

c. Conclusion Regarding Count III

AMFI validly issued 20,000 Class B shares to American Fidelity Life on July 30, 1982. Plaintiff therefore is not entitled to a declaratory judgment that no Class B shares of AMFI are issued or outstanding.[206]

2. Counts IV And V

The remaining Class B Claims do not survive. Any derivative aspects of these claims fail because Plaintiff lacks standing to bring them on behalf of the Company. To have standing in a derivative suit, Plaintiff must satisfy the contemporaneous

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[202] JX-14 at 3.

[203] *Id.*

[204] Plaintiff's only support for this proposition is Little Sabine's stock ledger and Defendants' failure to produce Investment Corp.'s stock ledger. *See* Pl.'s Opening Br. at 10 nn.57–58. This not enough.

[205] *See* JX-1 § 6.2; JX-241 at 1.

[206] *See* Second Am. Compl. ¶ 66.

ownership requirement.[207] Plaintiff owned shares as of 1998.[208] The complained-of transactions occurred in 1982 and 1983.[209] Accordingly, Plaintiff lacks standing to bring these claims derivatively.

Plaintiff argues that aspects of the Class B Claims are direct claims. Defendants advance compelling arguments to the contrary. But this decision need not determine whether the Class B Claims are direct or derivative, because any direct aspects of these claims also fail. Plaintiff predicates much of the Class B Claims on a finding that the Class B stock was not validly issued and therefore void or voidable.[210] In this way, Count IV falls with Count III.

Plaintiff pleads Count V in the alternative, claiming that Defendants breached their fiduciary duties in connection with the reverse stock split. But because Plaintiff was not a stockholder at the time of the reverse stock split, Plaintiff was not owed fiduciary duties in connection with that transaction.[211] Count V therefore also fails for lack of a fiduciary relationship.

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[207] 8 *Del. C.* § 327; Ct. Ch. R. 23.1(a)(2).

[208] *See supra* Section I.F. Even setting aside Plaintiff's stipulation, Plaintiff owned shares no earlier than 1989.

[209] Plaintiff's reliance on *Maclary v. Pleasant Hills, Inc.*, 109 A.2d 830 (Del. Ch. 1954) helped Plaintiff survive the motion to dismiss because the court had yet to determine when the Class B shares were issued. *See Mitchell P'rs,* 2024 WL 3289389, at *5–6. *Maclary* is no longer relevant since, as discussed above, the court finds the Class B shares were issued in 1982.

[210] Second Am. Compl. ¶¶ 72–74.

[211] *See, e.g.*, *Leung v. Schuler*, 2000 WL 264328, at *6 (Del. Ch. Feb. 29, 2000) ("Because the plaintiff did not become a stockholder" until after the alleged violation, "no fiduciary relationship or duty existed or arose at the time of the alleged violation.").

III. CONCLUSION

The court enters judgment for Defendants on all claims. The parties are instructed to meet and confer on a form of Final Order and Judgment and submit an agreed-upon form or competing forms of order within 20 business days of this decision.