

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

JAMES RIVER GROUP HOLDINGS, LTD.,  
FRANK N. D'ORAZIO, and SARAH C.  
DORAN,

Defendants.

Case No.: DRAFT

**CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS**

**DEMAND FOR JURY TRIAL**

Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by James River Group Holdings, Ltd. (“James River” or the “Company”) with the United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and disseminated by James River; and (c) review of other publicly available information concerning James River.

### **NATURE OF THE ACTION AND OVERVIEW**

1. This is a class action on behalf of persons and entities that purchased or otherwise acquired James River securities between August 7, 2023 and November 7, 2023, inclusive (the “Class Period”). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934 (the “Exchange Act”).

2. James River is an exempted holding company registered in Bermuda, organized for the purpose of acquiring and managing insurance and reinsurance entities. The Company owns five insurance companies based in the United States focused on specialty insurance niches as well as a Bermuda-based reinsurance company.

3. On November 8, 2023 the Company disclosed it had identified a material weakness in its internal control over financial reporting and that it had identified an accounting error related to the Company’s reinstatement premium in its Excess & Surplus Lines segment previously issued on the Company’s financial statements for the second quarter of 2023. James River disclosed the error resulted in overstatements of net income of \$7.8 million and \$10.4 million for the three and six months ended June 30, 2023, respectively, as well as understatements of ceded written

premium, and overstatements of net written premium and net earned premium of \$9.4 million and \$12.3 million for the three and six months ended June 30, 2023, respectively.

4. On this news, the Company's share price fell \$1.04, or 7%, to close at \$13.15 on November 8, 2023 on unusually heavy trading volume. Then as the market absorbed the news, the Company's share price fell another \$2.62, or 23% to close at \$8.84 on November 9, 2023 on unusually heavy trading volume.

5. Throughout the Class Period, Defendants made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that James River failed to address any material weakness with internal controls regarding net written premium, net earned premium, and net income (2) James River financial statements from the three and six months ended June 30, 2023 included "an error in [] accounting" (3) as a result James River would need to restate its previously filed financial statements for certain periods (4) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

6. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

### **JURISDICTION AND VENUE**

7. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

9. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District.

10. In connection with the acts, transactions, and conduct alleged herein, Defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

### **PARTIES**

11. Plaintiff \_\_\_\_\_, as set forth in the accompanying certification, incorporated by reference herein, purchased James River securities during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

12. Defendant James River is incorporated under the laws of Bermuda with its principal executive offices located in Bermuda. James River's common shares ("shares") trade on the NASDAQ exchange under the symbol "JRVV."

13. Defendant Frank N. D'Orazio ("D'Orazio") was the Company's Chief Executive Officer ("CEO") at all relevant times.

14. Defendant Sarah C. Doran ("Doran") was the Company's Chief Financial Officer ("CFO") at all relevant times. Frank N. D'Orazio and Sarah C. Doran

15. Defendants D'Orazio and Doran (together, the "Individual Defendants"), because of their positions with the Company, possessed the power and authority to control the contents of the Company's reports to the SEC, press releases and presentations to securities analysts, money

and portfolio managers and institutional investors, i.e., the market. The Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein.

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

16. James River is an exempted holding company registered in Bermuda, organized for the purpose of acquiring and managing insurance and reinsurance entities. The Company owns five insurance companies based in the United States focused on specialty insurance niches as well as a Bermuda-based reinsurance company.

### **Materially False and Misleading**

#### **Statements Issued During the Class Period**

17. The Class Period begins on August 7, 2023. On that day, James River announced its second quarter 2023 financial results in a press release which was filed with the SEC on a Form 8-K as exhibit 99.1 (the "2Q23 Press Release").<sup>1</sup> The 2Q23 Press Release reported second quarter 2023 net income of \$23,693 for the three months ended June 30, 2023.

18. The 2Q23 Press Release reported net income of \$33,301 the six months ended June 30, 2023.

---

<sup>1</sup> Unless otherwise stated, all emphasis in bold and italics hereinafter is added, and all footnotes are omitted.

19. The 2Q23 Press Release stated the following net earned premium for the three months ending June 30, 2023:

Net earned premium of \$209.7 million, consisting of the following:

<i>(\$ in thousands)</i>	<b>Three Months Ended June 30,</b>		<b>% Change</b>
	<b>2023</b>	<b>2022</b>	
Excess and Surplus Lines	\$ 159,002	\$ 137,884	15 %
Specialty Admitted Insurance	23,858	18,141	32 %
Casualty Reinsurance	26,798	30,237	(11)%
	<u>\$ 209,658</u>	<u>\$ 186,262</u>	13 %

20. The 2Q23 Press Release stated the following net written premium for the three months ending June 30, 2023:

Net written premium of \$218.2 million, consisting of the following:

<i>(\$ in thousands)</i>	<b>Three Months Ended June 30,</b>		<b>% Change</b>
	<b>2023</b>	<b>2022</b>	
Excess and Surplus Lines	\$ 184,768	\$ 166,004	11 %
Specialty Admitted Insurance	29,116	18,390	58 %
Casualty Reinsurance	4,295	10,297	(58)%
	<u>\$ 218,179</u>	<u>\$ 194,691</u>	12 %

21. The 2Q23 Press Release stated the following gross written premium for the three months ending June 30, 2023

Gross written premium of \$427.7 million, consisting of the following:

<i>(\$ in thousands)</i>	<b>Three Months Ended June 30,</b>		<b>% Change</b>
	<b>2023</b>	<b>2022</b>	
Excess and Surplus Lines	\$ 286,126	\$ 266,635	7 %
Specialty Admitted Insurance	136,924	124,967	10 %
Casualty Reinsurance	4,691	8,112	(42)%
	<u>\$ 427,741</u>	<u>\$ 399,714</u>	7 %

22. The 2Q23 Press Release stated the following results of the Company's Excess and Surplus Lines:

**EXCESS AND SURPLUS LINES**

(\$ in thousands)	Three Months Ended June 30,		% Change	Six Months Ended June 30,		% Change
	2023	2022		2023	2022	
Gross written premiums	\$ 286,126	\$ 266,635	7.3 %	\$ 515,029	\$ 470,917	9.4 %
Net written premiums	\$ 184,768	\$ 166,004	11.3 %	\$ 332,198	\$ 291,714	13.9 %
Net earned premiums	\$ 159,002	\$ 137,884	15.3 %	\$ 310,361	\$ 269,185	15.3 %
Losses and loss adjustment expenses excluding retroactive reinsurance	(105,098)	(89,184)	17.8 %	(204,287)	(174,109)	17.3 %
Underwriting expenses	(34,471)	(26,366)	30.7 %	(66,646)	(51,285)	30.0 %
Underwriting profit (a)	\$ 19,433	\$ 22,334	(13.0)%	\$ 39,428	\$ 43,791	(10.0)%
Ratios:						
Loss ratio	66.1 %	64.7 %		65.8 %	64.7 %	
Expense ratio	21.7 %	19.1 %		21.5 %	19.0 %	
Combined ratio	87.8 %	83.8 %		87.3 %	83.7 %	
Accident year loss ratio	66.0 %	64.7 %		65.9 %	64.7 %	

23. On August 8, 2023 the Company submitted their Quarterly report for the period ended June 30, 2023 on a Form 10-Q filed with the SEC (the “2Q 10-Q”). The 2Q 10-Q reported the following net income statement:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
<i>(in thousands, except share amounts)</i>				
<b>Revenues</b>				
Gross written premiums	\$ 427,741	\$ 399,714	\$ 791,634	\$ 759,650
Ceded written premiums	(209,562)	(205,023)	(390,235)	(389,100)
Net written premiums	218,179	194,691	401,399	370,550
Change in net unearned premiums	(8,521)	(8,429)	16,372	5,536
Net earned premiums	209,658	186,262	417,771	376,086
Net investment income	25,175	14,705	50,947	30,972
Net realized and unrealized gains (losses) on investments	2,145	(17,110)	2,552	(22,120)
Other income	1,464	949	2,773	1,816
Total revenues	238,442	184,806	474,043	386,754
<b>Expenses</b>				
Losses and loss adjustment expenses	141,308	121,369	296,596	256,977
Other operating expenses	58,865	49,036	119,124	99,097
Other expenses	223	—	826	368
Interest expense	6,941	4,049	13,557	6,341
Amortization of intangible assets	91	91	182	182
Total expenses	207,428	174,545	430,285	362,965
Income before taxes	31,014	10,261	43,758	23,789
Income tax expense	7,321	2,597	10,457	5,920
<b>Net income</b>	23,693	7,664	33,301	17,869
Dividends on Series A preferred shares	(2,625)	(2,625)	(5,250)	(3,500)
Net income available to common shareholders	\$ 21,068	\$ 5,039	\$ 28,051	\$ 14,369

24. The 2Q 10-Q reported the following regarding the Excess and Surplus Lines Segment:

	Three Months Ended June 30,		%	Six Months Ended June 30,		%
	2023	2022		2023	2022	
	(\$ in thousands)					
Gross written premiums	\$ 286,126	\$ 266,635	7.3 %	\$ 515,029	\$ 470,917	9.4 %
Net written premiums	\$ 184,768	\$ 166,004	11.3 %	\$ 332,198	\$ 291,714	13.9 %
Net earned premiums	\$ 159,002	\$ 137,884	15.3 %	\$ 310,361	\$ 269,185	15.3 %
Losses and loss adjustment expenses excluding retroactive reinsurance	(105,098)	(89,184)	17.8 %	(204,287)	(174,109)	17.3 %
Underwriting expenses	(34,471)	(26,366)	30.7 %	(66,646)	(51,285)	30.0 %
Underwriting profit (loss)	\$ 19,433	\$ 22,334	(13.0)%	\$ 39,428	\$ 43,791	(10.0)%
Ratios:						
Loss ratio	66.1 %	64.7 %		65.8 %	64.7 %	
Expense ratio	21.7 %	19.1 %		21.5 %	19.0 %	
Combined ratio	87.8 %	83.8 %		87.3 %	83.7 %	
Accident year loss ratio	66.0 %	64.7 %		65.9 %	64.7 %	

25. The 2Q 10-Q reported the following results for the Excess and Surplus Lines Segment for the three months ended June 30, 2023:

	<b>Excess and Surplus Lines</b>
<b>Three Months Ended June 30, 2023</b>	
Gross written premiums	\$ 286,126
Net earned premiums	159,002
Underwriting profit of operating segments	19,433
Net investment income	14,903
Interest expense	—
Segment revenues	175,521
Segment goodwill	181,831
Segment assets	2,880,824

26. The 2Q 10-Q reported the following results for the Excess and Surplus Lines Segment for the six months ended June 30, 2023:

<b>Six Months Ended June 30, 2023</b>	
Gross written premiums	\$ 515,029
Net earned premiums	310,361
Underwriting profit (loss) of operating segments	39,428
Net investment income	29,956
Interest expense	—
Segment revenues	342,171
Segment goodwill	181,831
Segment assets	2,880,824

27. The 2Q 10-Q reported the following regarding internal controls:

#### **Item 4. Controls and Procedures**

##### *Evaluation of Disclosure Controls and Procedures*

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports we file under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”), as appropriate, to allow timely decisions regarding required financial disclosure. In connection with the preparation of this quarterly report on Form 10-Q, our management carried out an evaluation, under the supervision and with the participation of our CEO and CFO, as of June 30, 2023, of the effectiveness of the design and operation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) and 15d-15(e) under the Exchange Act. ***Based upon this evaluation, our CEO and CFO concluded that our disclosure controls and procedures were effective as of June 30, 2023.***

28. The above statements identified in ¶¶ 17-27 were materially false and/or misleading, and failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that James River failed to address any material weakness with internal controls regarding net written premium, net earned premium, and net income (2) James River financial statements from the three and six months ended June 30, 2023 included “an error in [] accounting” (3) as a result James River would need to restate its previously filed financial statements for certain periods (4) that, as a result of the foregoing, Defendants’ positive statements about the Company’s business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

#### **Disclosures at the End of the Class Period**

29. On November 8, 2023 the company submitted to the SEC a Form 8-K containing a disclosure announcing the “Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review.” Specifically, the disclosure stated:

(a) In preparing its Quarterly Report on Form 10-Q for the period ended September 30, 2023, management of the Company identified an ***error in the accounting for reinstatement premium on a specialty casualty reinsurance treaty in its Excess & Surplus Lines segment (the “Reinstatement Premium”) in the Company’s previously issued condensed consolidated financial statements as of and for the three and six months ended June 30, 2023 (the “Prior Financial Statements”).*** Certain of the Company’s reinsurance treaties include a requirement to pay additional reinsurance premiums after the initial coverage limit has been exhausted. In determining whether the Company owed reinstatement premium on one of its treaties, the Company found that the liability for the reinstatement premium payable on three claims was recorded in a subsequent quarter of 2023 from the quarter in 2023 when the incurred losses that triggered the reinstatement premiums were recorded. ***This error resulted in understatements of ceded written premium, and overstatements of net written premium and net earned premium of \$9.4 million and \$12.3 million for the three and six months ended June 30, 2023, respectively, and overstatements of net income of \$7.8 million and \$10.4 million for the three and six months ended June 30, 2023, respectively,*** within the condensed consolidated statements of income and comprehensive income (loss), as well as corresponding effects on the condensed consolidated balance sheet and condensed consolidated statements of changes in shareholders’ equity as of and for the three and six months ended June 30, 2023 in the original Quarterly Report on Form 10-Q for such period filed with the U.S. Securities and Exchange Commission on August 8, 2023 (the “Original Filing”). A similar error occurred in the three months ended March 31, 2023, which was deemed immaterial.

Due to this error, on November 7, 2023, the Audit Committee of the Board of Directors of the Company, after considering the recommendation of management and discussion with its independent registered public accounting firm, Ernst & Young LLP (“EY”), concluded that ***the Prior Financial Statements included in the Original Filing should no longer be relied upon solely as a result of the above-described error in the accounting for the Reinstatement Premium and will require restatement. Similarly, any previously issued or filed reports, related earnings releases, investor presentations or similar communications of the Company describing the Prior Financial Statements should no longer be relied upon.***

The Company’s management has assessed the effect of the foregoing on the Company’s internal control over financial reporting and disclosure controls and procedures. ***The Company’s control over the review of the determination of when reinstatement premiums for reinsurance should be recognized did not operate effectively as of March 31, 2023 and June 30, 2023 resulting in a material weakness in the Company’s internal control over financial reporting. Based on this assessment, the Company’s disclosure controls and procedures were ineffective in the first and second quarter of 2023.***

30. On this news, the Company’s share price fell \$1.04, or 7%, to close at \$13.15 on November 8, 2023 on unusually heavy trading volume. Then as the market absorbed the news, the

Company's share price fell another \$2.62, or 23% to close at \$8.84 on November 9, 2023 on unusually heavy trading volume.

### **CLASS ACTION ALLEGATIONS**

31. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that purchased or otherwise acquired James River securities between August 7, 2023 and November 8, 2023, inclusive, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

32. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, James River's shares actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of James River shares were traded publicly during the Class Period on the NASDAQ. Record owners and other members of the Class may be identified from records maintained by James River or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

33. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

34. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

35. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of James River; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

36. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

#### **UNDISCLOSED ADVERSE FACTS**

37. The market for James River's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and/or misleading statements, and/or failures to disclose, James River's securities traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired James River's securities relying upon the integrity of the market price of the Company's securities and market information relating to James River, and have been damaged thereby.

38. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of James River's securities, by publicly issuing false and/or misleading

statements and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and/or misleading. The statements and omissions were materially false and/or misleading because they failed to disclose material adverse information and/or misrepresented the truth about James River's business, operations, and prospects as alleged herein.

39. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about James River's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein when the truth was revealed.

### **LOSS CAUSATION**

40. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

41. During the Class Period, Plaintiff and the Class purchased James River's securities at artificially inflated prices and were damaged thereby. The price of the Company's securities significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

## **SCIENTER ALLEGATIONS**

42. As alleged herein, Defendants acted with scienter since Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding James River, their control over, and/or receipt and/or modification of James River's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning James River, participated in the fraudulent scheme alleged herein.

### **APPLICABILITY OF PRESUMPTION OF RELIANCE**

#### **(FRAUD-ON-THE-MARKET DOCTRINE)**

43. The market for James River's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, James River's securities traded at artificially inflated prices during the Class Period. On August 7, 2023, the Company's share price closed at a Class Period high of \$17.77 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of James River's securities and market information relating to James River, and have been damaged thereby.

44. During the Class Period, the artificial inflation of James River's shares was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading

statements about James River's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of James River and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company shares. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

45. At all relevant times, the market for James River's securities was an efficient market for the following reasons, among others:

(a) James River shares met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market;

(b) As a regulated issuer, James River filed periodic public reports with the SEC and/or the NASDAQ;

(c) James River regularly communicated with public investors via established market communication mechanisms, including through regular dissemination of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and/or

(d) James River was followed by securities analysts employed by brokerage firms who wrote reports about the Company, and these reports were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

46. As a result of the foregoing, the market for James River's securities promptly digested current information regarding James River from all publicly available sources and

reflected such information in James River's share price. Under these circumstances, all purchasers of James River's securities during the Class Period suffered similar injury through their purchase of James River's securities at artificially inflated prices and a presumption of reliance applies.

47. A Class-wide presumption of reliance is also appropriate in this action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or omissions. Because this action involves Defendants' failure to disclose material adverse information regarding the Company's business operations and financial prospects—information that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in making investment decisions. Given the importance of the Class Period material misstatements and omissions set forth above, that requirement is satisfied here.

#### **NO SAFE HARBOR**

48. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker

had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of James River who knew that the statement was false when made.

**FIRST CLAIM**

**Violation of Section 10(b) of The Exchange Act and**

**Rule 10b-5 Promulgated Thereunder**

**Against All Defendants**

49. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

50. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase James River's securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each defendant, took the actions set forth herein.

51. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for James River's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

52. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a

continuous course of conduct to conceal adverse material information about James River's financial well-being and prospects, as specified herein.

53. Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of James River's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about James River and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

54. Each of the Individual Defendants' primary liability and controlling person liability arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

55. Defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing James River's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

56. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of James River's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired James River's securities during the Class Period at artificially high prices and were damaged thereby.

57. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems

that James River was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their James River securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

58. By virtue of the foregoing, Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

59. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

## **SECOND CLAIM**

### **Violation of Section 20(a) of The Exchange Act**

#### **Against the Individual Defendants**

60. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

61. Individual Defendants acted as controlling persons of James River within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings, and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were

issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

62. In particular, Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

63. As set forth above, James River and Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their position as controlling persons, Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;
- (b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

### **JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

DATED: November \_\_, 2023

By: \_\_\_\_\_  
**LAW OFFICES OF HOWARD G. SMITH**  
Howard G. Smith  
3070 Bristol Pike, Suite 112  
Bensalem PA 19020  
Telephone: (215) 638-4847  
Facsimile: (215) 638-4867

**GLANCY PRONGAY & MURRAY LLP**  
Robert V. Prongay  
Charles H. Linehan  
Pavithra Rajesh  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
Telephone: (310) 201-9150  
Facsimile: (310) 201-9160

*Attorneys for Plaintiff* \_\_\_\_\_