
*
IN THE MATTER OF: *
*
FORTRESS TRUST LLC *
d/b/a FORTRESS TRUST *
NMLS # 2318097 *
*
(“Fortress Trust”) *
*

CONSENT ORDER

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, and Sections 36a-613 and 36a-614 of the 2024 Supplement to the General Statutes, known as the “Money Transmission Act”;

WHEREAS, Fortress Trust is a Nevada limited liability company and Nevada chartered retail trust company with an address of 10845 Griffith Peak Drive, Suite 200A, Las Vegas, Nevada;

WHEREAS, Fortress Trust has been licensed to engage in the business of money transmission in Connecticut since July 8, 2022. On November 27, 2023, Fortress Trust requested renewal of its license to engage in the business of money transmission in Connecticut on the Nationwide Multistate Licensing System and Registry (“NMLS”) for the January 1, 2024 through December 31, 2024 period. Such renewal request is currently pending;

WHEREAS, the Commissioner, through the Consumer Credit Division of the Department of Banking (“Department”), conducted an investigation into the activities of Fortress Trust pursuant to Section 36a-17 of the Connecticut General Statutes to determine if it had violated, was violating or was

about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner;

WHEREAS, as a result of such investigation, on February 13, 2024, the Commissioner issued an Order of Summary Suspension, Temporary Order to Cease and Desist, Notice of Intent to Revoke and Refuse to Renew Money Transmission License, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing (collectively, “Order and Notice”) against Fortress Trust, which Order and Notice is incorporated by reference herein;

WHEREAS, the Commissioner alleged in the Order and Notice that Fortress Trust failed to:

- (1) maintain the minimum tangible net worth required of money transmission licensees, in violation of Sections 36a-600(d) and 36a-604(c) of the Connecticut General Statutes;
- (2) file with NMLS an advance change notice for its change in control on October 21, 2023, in violation of Section 36a-598(d)(1) of the Connecticut General Statutes;
- (3) file with NMLS a change of its main office at least thirty (30) days prior to such change, in violation of Section 36a-598(d)(2) of the Connecticut General Statutes;
- (4) file record of its Summary Suspension in North Carolina on NMLS, in violation of Section 36a-598(e)(3) of the Connecticut General Statutes;
- (5) timely update its application on NMLS concerning the changes in its President, Chief Executive Officer, Qualifying Individual and Primary Company Contact, in violation of Section 36a-598(c) of the Connecticut General Statutes; and
- (6) establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable money transmission laws and regulations, in violation of Section 36a-607(c)(10) of the Connecticut General Statutes;

WHEREAS, the Commissioner asserted that the allegations made in the Order and Notice constituted sufficient grounds to revoke and refuse to renew Fortress Trust’s license to engage in the business of money transmission in Connecticut pursuant to subdivisions (1) and (2) of Section 36a-608(b) of the Connecticut General Statutes and subsections (a) and (b) of Section 36a-51 of the Connecticut General Statutes, formed the basis to issue an order to cease and desist against Fortress Trust pursuant to Sections 36a-608(c)(1) and 36a-52(a) of the Connecticut General Statutes, and to impose a civil penalty

of up to One Hundred Thousand Dollars (\$100,000) per violation upon Fortress Trust pursuant to Sections 36a-608(c)(1) and 36a-50(a) of the Connecticut General Statutes;

WHEREAS, the Commissioner also alleged in the Order and Notice that the totality of Fortress Trust's conduct causes the Commissioner unable to find that its financial condition is sound, its business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, in a manner commanding the confidence and trust of the community, and its control persons and qualified individual demonstrate financial responsibility and are in all respects properly qualified and of good character, and would be sufficient grounds for the Commissioner to deny an application for a money transmission license pursuant to subdivisions (1), (2), and (3) of Section 36a-600(a) of the Connecticut General Statutes and for the Commissioner to revoke and refuse to renew Fortress Trust's license to engage in the business of money transmission in Connecticut pursuant to Section 36a-608(b)(1) of the Connecticut General Statutes and subsections (a) and (b) of Section 36a-51 of the Connecticut General Statutes;

WHEREAS, on February 13, 2024, the Order and Notice was sent by electronic mail to the person designated as the Primary Company Contact in the contact employee fields on NMLS and was deemed received on the earlier of the date of actual receipt or seven days after such Order and Notice was sent;

WHEREAS, on April 3, 2024, Fortress Trust filed an advance change notice in NMLS describing a proposed change of control of Fortress Trust (the "Change of Control");

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, the Commissioner and Fortress Trust acknowledge the possible consequences of further administrative proceedings, and Fortress Trust voluntarily agrees to consent to the entry of the sanctions imposed below without admitting or denying the allegations in the Order and Notice and set forth herein, and solely for the purpose of obviating the need for further administrative proceedings concerning the allegations in the Order and Notice and set forth herein;

WHEREAS, the Commissioner and Fortress Trust now desire to resolve the matters alleged in the Order and Notice and set forth herein;

WHEREAS, Fortress Trust agrees that the Order and Notice may be used in construing the Commissioner's allegations described in this Consent Order and agrees to the language of this Consent Order;

WHEREAS, Fortress Trust acknowledges that it has had the opportunity to consult with and be represented by independent counsel in negotiating and reviewing this Consent Order and executes this Consent Order freely;

WHEREAS, Fortress Trust acknowledges that this Consent Order is a public record and is a reportable event for purposes of the regulatory disclosure questions on NMLS, as applicable;

AND WHEREAS, Fortress Trust, through its execution of this Consent Order, voluntarily agrees to waive its procedural rights, including an opportunity for a hearing as it pertains to the allegations set forth in the Order and Notice and set forth herein, and voluntarily waives its right to seek judicial review or otherwise challenge or contest the validity of this Consent Order.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Fortress Trust, through its execution of this Consent Order, consents to the Commissioner's entry of a Consent Order imposing the following sanctions:

1. Fortress Trust shall: (a) no later than September 30, 2024, maintain the minimum tangible net worth required of money transmission licensees, in accordance with Sections 36a-600(d) and 36a-604(c) of the Connecticut General Statutes; (b) file with NMLS an advance change notice for any change in its control persons, in accordance with Section 36a-598(d)(1) of the Connecticut General Statutes; (c) file with NMLS any change of its main office location at least thirty (30) days prior to such change, in accordance with Section 36a-598(d)(2) of the Connecticut General Statutes; (d) file record of the commencement of any proceeding to revoke or suspend its license to engage in money transmission in another state or a foreign country, or other formal or informal regulatory action by any governmental agency taken against Fortress Trust on NMLS, in accordance with Section 36a-598(e)(3) of the Connecticut General Statutes; (e) timely update its application on NMLS concerning any change in its control persons, in accordance with Section 36a-598(c) of the Connecticut General Statutes; and (f) establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable money transmission laws and regulations, in accordance with Section 36a-607(c)(10) of the Connecticut General Statutes;

2. No later than the date this Consent Order is executed by Fortress Trust, it shall remit to the Department of Banking by electronic funds transfer, cashier's check, certified check or money order made payable to "Treasurer, State of Connecticut", the sum of Seventy-Five Thousand Dollars (\$75,000) as a civil penalty;
3. No later than September 30, 2024, Fortress Trust shall retain an external consultant experienced in money transmission licensing and regulation for the purpose of reviewing Fortress Trust's compliance management system and issuing recommendations to ensure compliance of Fortress Trust's money transmission activities with state and federal laws and regulations, including but not limited to, timely responding to regulatory inquiries, maintaining and updating NMLS records, and establishing, enforcing and maintaining policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable money transmission laws and regulations in Connecticut. Such consultant shall issue a detailed report no later than ninety (90) days from the date on which Fortress Trust retains the consultant and any deficiency noted in such report shall be addressed through a corrective action plan. No later than one-hundred eighty (180) days from the date on which Fortress Trust retains the consultant, Fortress Trust shall implement such corrective action plan, including but not limited to, revised policies and procedures and providing comprehensive training to its management, control persons and compliance personnel on such policies and procedures. Fortress Trust shall provide evidence of such revised policies and procedures and training upon request by the Commissioner;
4. No later than October 1, 2025, Fortress Trust shall engage an external independent auditor who is experienced in money transmission licensing and regulation ("Auditor") to perform an audit of Fortress Trust's compliance management system. Fortress Trust shall require that the Auditor issue, no later January 1, 2026, simultaneously to the Commissioner and Fortress Trust, a final report detailing any and all findings as a result of its audit, any identified instances of non-compliance and the root cause of each instance of non-compliance. Fortress Trust shall remediate all identified deficiencies within ninety (90) days from the date the Auditor issues the final report;
5. (a) Fortress Trust consents to the immediate entry and imposition of an additional civil penalty of One Hundred Thousand Dollars (\$100,000) in the event that:
 - i. Fortress Trust fails to comply with paragraph 1(a); or
 - ii. (A) Fortress Trust fails to engage a consultant as set forth in paragraph 3 or engage an Auditor as set forth in paragraph 4, or (B) fails to remediate all identified deficiencies within ninety (90) days from the date the Auditor issues the final report.

For avoidance of doubt, the cumulative amount of the civil penalty imposed under this paragraph 5(a) shall not exceed Two Hundred Thousand Dollars (\$200,000).

(b) The Department shall provide written notice to Fortress Trust of any such violation and the corresponding monetary sanction shall be remitted by electronic funds transfer, cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut" no later than thirty (30) days after receipt of such written notice. Fortress Trust, knowingly, willfully and voluntarily waives its right to an administrative notice and an opportunity for a hearing set forth in the Connecticut Uniform Administrative Procedure Act and any right to seek judicial review of the imposition of such penalties. Furthermore, such penalties shall be in addition to any other remedies that the Commissioner may seek for a violation by Fortress Trust of this Consent Order

or any provision of the general statutes or any regulation within the jurisdiction of the Commissioner.

6. (a) No later than October 7, 2024, Fortress Trust shall provide the Commissioner with satisfactory evidence of its compliance with paragraph 1(a);
 - (b) Fortress Trust agrees to request the surrender of its money transmission license in the event that it fails to demonstrate compliance with the minimum tangible net worth requirements set forth in Sections 36a-600(d) and 36a-604(c) of the Connecticut General Statutes by September 30, 2024, and shall submit a request to surrender its license on NMLS within five (5) business days following receipt of written notice from the Commissioner indicating its failure to demonstrate compliance with such net worth requirements. Fortress Trust shall provide the Commissioner with a wind down plan related to any request to surrender its license and shall terminate its operations in accordance with the requirements set forth in subsection (e) of Section 36a-599 of the Connecticut General Statutes, as amended by Public Act 24-146. To the extent that Fortress Trust complies with this paragraph 6(b) to the Commissioner's satisfaction, the Commissioner shall not seek additional sanctions pursuant to this Consent Order in excess of those allowable under paragraph 5(a)(i); and
 - (c) In the event that Fortress Trust fails to provide the Commissioner with satisfactory evidence, as determined by the Commissioner, of compliance with the requirements of paragraph 6(b) within forty (40) days of the date upon which any surrender request is submitted or required pursuant to paragraph 6(b), Fortress Trust's money transmission license in Connecticut shall be **SUMMARILY REVOKED**, without any further notice or opportunity for a hearing. Fortress Trust knowingly, and voluntarily waives its procedural rights in connection with any such revocation, including an opportunity for a hearing and any right to seek judicial review.

CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanctions set forth above be and are hereby entered;
2. Upon issuance of this Consent Order by the Commissioner, this matter will be resolved and the Commissioner will not take any future enforcement action against Fortress Trust based upon the allegations contained in the Order and Notice and set forth herein; provided that issuance of this Consent Order is without prejudice to the right of the Commissioner to take enforcement action against Fortress Trust based upon a violation of this Consent Order or matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by Fortress Trust and reflected herein is subsequently discovered to be untrue;
3. Fortress Trust shall not take any action or make or permit to be made any public statement, including in regulatory filings, any proceedings in any forum or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis. Except as specifically provided herein, Fortress Trust shall not take any position in any proceeding brought by or on behalf of the Commissioner, or to which the Commissioner is a party, that is inconsistent with any part of this Consent Order. Nothing in this provision affects Fortress Trust's (i) testimonial obligations, or (ii) right to take

any legal or factual positions that may contradict the allegation in this Consent Order in litigation or other legal proceedings in which the Commissioner is not a party;

4. Subject to the foregoing, and so long as this Consent Order is promptly disclosed by Fortress Trust and its control persons on NMLS, as applicable, nothing in the issuance of this Consent Order shall adversely affect the ability of Fortress Trust to apply for or obtain an initial license or renewal license under Part V of Chapter 668, Sections 36a-595 *et seq.*, of the Connecticut General Statutes, provided that all applicable legal requirements for such licenses are satisfied and the terms of this Consent Order are followed;
5. This Consent Order shall be binding upon Fortress Trust and its successors and assigns; and
6. This Consent Order shall become final when issued.

Issued at Hartford, Connecticut
this 14th day of August, 2024.

/s/

Jorge L. Perez
Banking Commissioner

I, Anthony Botticella, state on behalf of Fortress Trust LLC d/b/a Fortress Trust that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Fortress Trust LLC d/b/a Fortress Trust; that Fortress Trust LLC d/b/a Fortress Trust agrees freely and without threat or coercion of any kind to comply with the sanctions entered and terms and conditions ordered herein; and that Fortress Trust LLC d/b/a Fortress Trust voluntarily agrees to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/
Name: Anthony Botticella
Title: CEO
Fortress Trust LLC
d/b/a Fortress Trust

State of: Kansas

County of: Johnson

On this the 10th day of August 2024, before me, Catherine Duncan, the undersigned officer, personally appeared Anthony Botticella, who acknowledged himself/herself to be the CEO of Fortress Trust LLC d/b/a Fortress Trust, a member managed/manager managed limited liability company, and that he/she as such CEO, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as Anthony Botticella.

In witness whereof I hereunto set my hand.

/s/
Notary Public
Date Commission Expires: