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**THE WAGNER FIRM**  
Avi Wagner (SBN 226688)  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
Telephone: (310) 491-7949  
Facsimile: (310) 694-3967  
Email: avi@thewagnerfirm.com

*Attorneys for Plaintiff*  
[Additional Counsel on Signature Page]

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MELVYN KLEIN, Derivatively on  
Behalf of Nominal Defendant OPUS  
BANK,

Plaintiff,

v.

STEPHEN H. GORDON, MARK  
CICIRELLI, MARK E. SCHAFFER,  
MICHAEL MEYER, ROBERT  
SHACKLETON, THOMAS M.  
BOWERS, CURTIS A. GLOVIER,  
and DAVID KING,

Defendants,

OPUS BANK, a California  
Corporation,

Nominal Defendant.

Case No. 8:17-CV-00123-AB-JPR

**NOTICE OF LODGING  
EXHIBITS TO STIPULATION  
OF SETTLEMENT**

1           **TO THE CLERK OF THE COURT AND ALL PARTIES AND**  
2 **THEIR ATTORNEYS OF RECORD:**

3           **PLEASE TAKE NOTICE** that plaintiff Melvyn Klein hereby submits the  
4 foregoing exhibits in connection with the Stipulation of Settlement that was filed  
5 with the Court on January 29, 2018, docket entry number 36-1.

6  
7 DATED: January 30, 2018

**THE WAGNER FIRM**

8 By: s/ Avi Wagner  
9 Avi Wagner  
10 1925 Century Park East, Suite 2100  
11 Los Angeles, CA 90067  
12 Telephone: (310) 491-7949  
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14 Email: avi@thewagnerfirm.com

**GAINEY McKENNA & EGGLESTON**  
14 Thomas J. McKenna  
15 440 Park Avenue South, 5th Floor  
16 New York, NY 10016  
17 Tel: (212) 983-1300  
18 Fax: (212) 983-0383  
19 tjmckenna@gme-law.com

*Attorneys for Plaintiff*

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**PROOF OF SERVICE BY ELECTRONIC POSTING**

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On January 30, 2018, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 30, 2018, at Los Angeles, California.

*s/ Avi Wagner* \_\_\_\_\_  
Avi Wagner

## Mailing Information for a Case 8:17-cv-00123-AB-JPR Melvyn Klein v. Stephen H. Gordon et al

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Eric A Kuwana**  
eric.kuwana@kattenlaw.com,kelsey.matusak@kattenlaw.com,caitlin.munley@kattenlaw.com
- **Michael J Lohnes**  
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samantha.swietlikowski@kattenlaw.com
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bruce@kattenlaw.com,kelsey.matusak@kattenlaw.com,caitlin.munley@kattenlaw.com,ecf.lax.docket@kattenlaw.com
- **Avi N Wagner**  
avi@thewagnerfirm.com,anwagneresq@hotmail.com

### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)

# EXHIBIT A

## EXHIBIT A

### **CORPORATE GOVERNANCE REFORMS** **FOR DERIVATIVE SETTLEMENT**

#### **Initial Reforms**

Opus Bank (“Opus” or the “Bank”) acknowledges that the filing and pendency of *Klein v. Gordon, et al.*, Case No. 8:17-cv-00123-JLS-JCG (U.S. Dist. Ct., C.D. Cal.) and *Dillard Gordon, et al.*, Case No. BC651522 (Cal Super. Ct., L.A. Cnty.) (together, the “Actions”) comprised a substantial contributing factor to the decision by the Bank to implement the five initial corporate governance reforms below (“Initial Reforms”), which occurred after the Actions were commenced.

- Improving the Bank’s credit infrastructure, including changes to credit administration, underwriting and ongoing portfolio management processes;
- Refining the Bank’s credit risk appetite;
- Remediating the Bank’s credit issues, including reducing the balances of criticized loans and continuing on planned loan relationship exits;
- Implementing additional training regarding the credit review process, impairment methodology, and the Bank’s impairment framework; and

- Adopting a new director retirement policy.

### **Corporate Governance Reforms**

Within 60 days of the Court's entering the Final Judgment, Opus's Board of Directors ("Board") shall adopt resolutions and amend Board Committee Charters to the extent necessary to adhere to the eight corporate governance policies and enhancements set forth below ("Corporate Governance Reforms"), which shall remain in effect for no less than two (2) years unless otherwise stated herein.

Opus acknowledges and agrees that both of the Plaintiffs in the Actions ("Plaintiffs") were a precipitating and material factor in the adoption and implementation of the Corporate Governance Reforms by the Bank, and that the Corporate Governance Reforms, as well as the foregoing Initial Reforms, confer a substantial benefit to the Bank and its shareholders.

- ***Independent Third-Party Review of Outstanding Loan Portfolio.*** The Bank will engage a third-party loan review firm to conduct an independent review of a sampling of 10% the Bank's outstanding commercial loan portfolio for loans in excess of \$1,000,000 in 2018 and 2019. If material problems are discovered in the commercial loan portfolio, then the Bank will take further action that is in the best interest of the Bank.

- ***Creation of Chief Compliance Officer Position.*** The Board shall direct the Bank to create the position of Chief Compliance Officer, who shall report directly to the Chief Risk Officer and the Risk Oversight Committee. The duties of the Chief Compliance Officer shall include, but are not limited to:
  - o Monitoring adherence to the Bank's compliance program, including but not limited to, completion of all required and assigned training modules by established due dates;
  - o Ensuring compliance with all laws and regulations applicable to the position (i.e., all required Alpha Regs);
  - o Managing the Bank's compliance program, including policies, procedures, systems monitoring, technology-based controls, and training, as well as compliance monitoring and testing;
  - o Collaborating with other departments (i.e. Internal Audit, Risk Management, etc.) to direct compliance issues to appropriate existing channels for investigation and resolution. Consulting with Legal as needed to resolved respective legal compliance issues as needed;
  - o Responding to alleged violations of rules, regulations, policies and procedures by evaluating or recommending the initiation of investigative procedures. Developing and overseeing a system for

uniform handling of such violations;

- o Monitoring, and as necessary, coordinating compliance activities of other departments to remain abreast of the status of all compliance activities and to identify trends;

- o Identifying potential areas of compliance vulnerability and risk; developing/implementing corrective action plans for resolution of problematic issues, and providing general guidance on how to avoid or deal with similar situations in the future;

- o Instituting and maintaining an effective compliance communication program for the Bank, including understanding of new and existing compliance issues and related policies and procedures;

- o Working with the Human Resources Department and others as appropriate to develop an effective compliance training program, including appropriate introductory training for new employees as well as ongoing training for all employees, management, and members of the Board;

- o Providing effective leadership in enhancing and sustaining Opus's compliance programs to ensure they correspond commensurate with equivalent sized bank programs and practices

and in line with the expectations of federal and state regulatory authorities;

- o Assessing and monitoring the compliance risks associated with the Bank's business activities, operations, and products and services;
- o Serving as a point of contact for financial regulators and managing the bank's responses to regulatory inquiries/findings and preparation for compliance examinations;
- o Performing Compliance Risk Assessments and reviewing results with executive and senior management;
- o Ensuring satisfaction of CCO requirements for Dodd-Frank;
- o On a regular basis, reporting to the Executive Committee and Board of Directors on compliance matters, including actual or potential compliance program violations;
- o Overseeing the Corporate Complaint process.

The Chief Compliance Officer will report promptly any allegations of violations of the compliance policies to the Chief Risk Officer and Risk Oversight Committee.

Written reports by the Chief Compliance Officer related to compliance activities shall be provided to the Risk Oversight Committee.

- ***Separate Audit and Risk Oversight Committees.*** The Bank shall maintain

separate Audit and Risk Oversight Committees of the Board of Directors, and these committees shall have separate directors serving as Chairs.

- ***Whistleblower Hotline.*** The Bank's whistleblower hotline shall be monitored by an independent, third-party supplier. The whistleblower hotline shall provide an anonymous communication channel for employees and other stakeholders to report their concerns regarding, among other things, the integrity of the Bank's public disclosures, internal controls, auditing, financial reporting, accounting matters, insider sales and other matters. The whistleblower hotline reports shall be reported to the Chief Compliance Officer (as referred to herein) and the Chair of the Audit Committee.
- ***Quarterly Executive Sessions with Head of Credit Review.*** The Risk Oversight Committee shall hold executive sessions with the Head of Credit Review on a quarterly basis. During these sessions, the Head of Credit Review shall provide the Risk Oversight Committee with an update regarding the status of the Credit Policy and Credit Review Plan, and notify the Risk Oversight Committee of any material issues, amendments, or developments related thereto.
- ***Quarterly Executive Sessions with Chief Risk Officer.*** The Risk Oversight Committee shall hold executive sessions with the Chief Risk Officer on a

quarterly basis. During these sessions, the Chief Risk Officer shall provide the Risk Oversight Committee with an update regarding the status of the Enterprise Risk Management program, quarterly provision for loan losses, adequacy of the ALLL, and adequacy of the review for impaired loans, and notify the Committee of any material issues, amendments, or developments related to the foregoing topics.

- **Training.** The Bank will (1) engage a third party to provide training regarding financial accounting for lenders and commercial loans for businesses, (2) provide internal training regarding rating changes, and (3) send relevant employees to off-site risk related seminars and/or conferences. The enhanced credit-focused training will be provided to the following employees:

- o CAST (Credit Analysts)
- o Corporate Finance (Underwriters/Portfolio Managers/Portfolio Analysts)
- o Healthcare Banking (Underwriters/Portfolio Managers/Portfolio Analysts)
- o Institutional Syndications (Underwriters/Portfolio Managers)
- o Asset Based Lending (Underwriters/Portfolio Managers/Collateral Analysts)

- o Small Business Banking (Underwriters/Portfolio Managers)
- o Commercial Banking: Orange County, San Diego, Arizona, Los Angeles, Pacific Northwest (Underwriters/Portfolio Managers/Portfolio Analysts)
- o Public Finance (Portfolio Manager/Underwriter)
- o Media and Entertainment (Underwriter/Portfolio Manager)

Additionally, Senior Credit Administrators and Underwriters and Portfolio Managers from the CREB group will be included in both internal and external trainings as applicable.

- ***Posting of Code of Ethics and Corporate Governance Guidelines.*** The Risk Oversight Committee shall ensure that the Bank's Code of Ethics and Corporate Governance Guidelines are easily accessible via Opus's intranet.

# EXHIBIT B

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MELVYN KLEIN, Derivatively on  
Behalf of Nominal Defendant OPUS  
BANK,  
Plaintiff,

v.

STEPHEN H. GORDON, MARK  
CICIRELLI, MARK E. SCHAFFER,  
MICHAEL MEYER, ROBERT  
SHACKLETON, THOMAS M.  
BOWERS, CURTIS A. GLOVIER, and  
DAVID KING,

Defendants,

And

OPUS BANK, a California Corporation,  
Nominal Defendant.

Case No. 8:17-CV-00123(AB)(JPR)

**[PROPOSED] PRELIMINARY  
APPROVAL ORDER**

Judge: Hon. André Birotte, Jr.  
Courtroom: 7B – First Street  
Action Filed: January 24, 2017

**Presented to the court for preliminary approval is a settlement of all claims asserted against all Defendants in the above-captioned action (the “*Klein Action*”). The terms of the Settlement are set out in a Stipulation of Settlement executed by counsel for the Parties as of January 29, 2018 (“Stipulation”). All capitalized terms used herein have the meanings set forth and defined in the Stipulation.**

The Court, upon reviewing the Stipulation, declares that it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over the subject matter of the *Klein Action*, the Settlement, and over the Parties to the Stipulation.

2. The Court preliminarily finds that the proposed Settlement should be approved as being fair, reasonable, adequate, and in the best interests of Opus Bank (“Opus”) and its shareholders.

1           3.     In connection with preliminary approval of the proposed Settlement, the  
2 Court preliminarily finds, for purposes of the Settlement, that the *Klein* Action was  
3 properly brought pursuant to Federal Rule of Civil Procedure 23.1 as a shareholder  
4 derivative action on behalf of Opus, and that Plaintiff fairly and adequately represents  
5 the interests of Opus shareholders in enforcing the rights of Opus.

6           4.     A hearing (“Final Hearing”) will be held on \_\_\_\_\_, 2018 at \_\_\_:  
7 a.m./p.m. before the Honorable André Birotte, Jr. in Courtroom 7B of the United  
8 States District Court for the Central District of California, First Street Federal  
9 Courthouse, 350 W. 1st Street, Los Angeles, CA 90012, pursuant to Federal Rule of  
10 Civil Procedure 23.1, to among other things: (i) determine whether the proposed  
11 Settlement is fair, reasonable and adequate and in the best interests of Opus and Opus  
12 shareholders; (ii) consider any objections to the Settlement submitted in accordance  
13 with the Notice; (iii) determine whether a Final Judgment substantially in the form  
14 attached as Exhibit C to the Stipulation should be entered, dismissing all claims in the  
15 *Klein* Action with prejudice and releasing the Released Claims against the Released  
16 Persons; (iv) consider the payment to Plaintiffs’ Counsel of attorneys’ fees and for  
17 the reimbursement of expenses; (v) consider the payment of Service Awards to  
18 Plaintiffs to be paid from the Fee and Expense Award; and (vi) consider any other  
19 matters that may properly be brought before the Court in connection with the  
20 Settlement.

21           5.     Opus shall cause the notice of the proposed Settlement, including the  
22 date and time of the Final Hearing to be filed on Form 8-K with the U.S. Securities  
23 and Exchange Commission; published in a press release and/or published in  
24 *Investor’s Business Daily*; and to be posted, together with the Stipulation, on the  
25 Investors Relations portion of Opus’s website within ten (10) calendar days following  
26 the entry of this Order, which notice of the proposed Settlement shall be substantially  
27 in the form of the Notice attached as Exhibit B-1 to the Stipulation. Such notice is  
28 hereby found to be reasonable and sufficient under the circumstances, and to comply

1 with the provisions of Rule 23.1 of the Federal Rules of Civil Procedure and the  
2 requirements of due process of the United States Constitution, and to constitute due  
3 and sufficient notice to all Persons affected by the proposed Settlement and entitled  
4 to participate in the Final Hearing. Non-material changes to the form of the Notice  
5 may be made upon agreement by the Parties without further approval of the Court.

6 6. At least ten (10) days prior to the Final Hearing, counsel for Opus shall  
7 file proof by declaration of the filing and publication of the Notice, and of the posting  
8 of the Notice and Stipulation as set forth in Paragraph 5 above.

9 7. Any Opus Shareholder who wishes to object to the fairness,  
10 reasonableness, or adequacy of the Settlement, to any term of the Stipulation, or to  
11 the proposed Fee and Expense Award and Service Awards, may file an objection. An  
12 objector must file with the Court a written statement of his, her or its objection(s): (a)  
13 clearly indicating that objector's name, mailing address, daytime telephone number,  
14 and e-mail address (if any); (b) stating that the objector is objecting to the proposed  
15 Settlement and/or proposed Fee and Expense Award and Service Awards; (c)  
16 specifying the reason(s), if any, for each such objection made, including any legal  
17 support and/or evidence that such objector wishes to bring to the Court's attention or  
18 introduce in support of such objection; and (d) identifying and supplying  
19 documentation showing how many shares of Opus common stock the objector owned  
20 as of January 29, 2018, when the objector purchased or otherwise acquired such  
21 shares, and whether the objector still owns any such Opus shares.

22 8. The objector must file such objections and supporting documentation  
23 with the Clerk of the Court, U.S. District Court Central District of California,  
24 Western Division, First Street Federal Courthouse, 350 W. 1st Street Los Angeles,  
25 CA 90012, not later than twenty-one (21) days prior to the Final Hearing, and, by the  
26 same date, copies of all such papers must also be received by each of the following  
27 persons:  
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**Counsel for Plaintiff Klein:**  
Thomas J. McKenna  
GAINEY McKENNA & EGLESTON  
440 Park Avenue South, 5th Floor  
New York, NY 10016

**Counsel for Plaintiff Dillard:**  
Laurence M. Rosen  
THE ROSEN LAW FIRM, P.A.  
275 Madison Avenue, 34th Floor  
New York, NY 10016

**Counsel for Defendants and Opus:**  
Eric A. Kuwana  
KATTEN MUCHIN ROSENMAN LLP  
2900 K Street NW North Tower - Suite 200  
Washington, DC 20007

An objector may file an objection on his, her or its own or through an attorney hired at his, her or its own expense. If an objector hires an attorney to represent him, her or it for the purposes of making such objection pursuant to this paragraph, the attorney must effect service of a notice of appearance on the counsel listed above and file such notice with the Court no later than twenty-one (21) days before the Final Hearing. Any Opus Shareholder who does not timely file and serve a written objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred. Any submissions by the Parties in support of final approval of the Settlement shall be filed with the Court and served at least twenty-eight (28) days before the Final Hearing, and any submissions by the Parties in opposition or response to objections shall be filed with the Court no later than seven (7) days before the Final Hearing.

9. Any objector who files and serves a timely, written objection in accordance with the instructions above and herein, may appear at the Final Hearing either in person or through counsel retained at the objector's expense. Objectors need not attend the Final Hearing, however, in order to have their objections considered by

1 the Court. Timely objectors or their attorneys intending to appear at the Final Hearing  
2 are required to indicate in their written objection (or in a separate writing submitted  
3 to the counsel listed in the preceding paragraph no later than twenty-one (21) days  
4 prior to the Final Hearing) that they intend to appear at the Final Hearing and identify  
5 any witnesses they may call to testify and exhibits they intend to introduce into  
6 evidence at the Final Hearing. Objectors or their attorneys intending to appear at the  
7 Final Hearing must also, no later than twenty-one (21) days prior to the Final  
8 Hearing, file with the Court, and serve upon counsel listed in the above paragraph, a  
9 notice of intention to appear, setting forth the name and address of anyone intending  
10 to appear. Any objector who does not timely file and serve a notice of intention to  
11 appear in accordance with this paragraph shall not be permitted to appear at the Final  
12 Hearing, except for good cause shown.

13 10. Defendants' Counsel and Plaintiffs' Counsel shall promptly furnish all  
14 Parties with copies of any and all objections and notices of intention to appear that  
15 come into their possession.

16 11. Pending final determination of whether the Settlement should be  
17 approved, Plaintiffs and all other Opus Shareholders, and anyone who acts or  
18 purports to act on their behalf, shall not institute, prosecute, participate in, or assist in  
19 the institution, prosecution, or assertion of, any Released Claim against any of the  
20 Released Persons.

21 12. This Order shall become null and void, and shall be without prejudice to  
22 the rights of the Parties if the Settlement is terminated in accordance with the  
23 Stipulation. In such event, paragraph 17 of the Stipulation shall govern the rights of  
24 the Parties.

25 13. This Order shall not be construed or used as an admission, concession,  
26 or presumption by or against any of the Released Persons of any fault, wrongdoing,  
27 breach, or liability or as a waiver by any Party of any arguments, defenses, or claims  
28 he, she, or it may have in the event that the Stipulation is terminated, nor shall it be

1 used in any manner prohibited by paragraph 19 of the Stipulation. In the event this  
2 Order becomes of no force or effect, it shall not be construed or used as an admission,  
3 concession, or presumption by or against the Released Persons or the Plaintiffs.

4 14. All proceedings in this action are stayed until further order of the Court,  
5 except as may be necessary to implement the Settlement or comply with the terms of  
6 the Stipulation and this Order. This Court retains exclusive jurisdiction over the *Klein*  
7 Action to consider all further matters arising out of or connected with the Settlement.

8 15. The Court reserves the right to approve the Stipulation and the  
9 Settlement with modifications agreed to by the Parties and without further notice to  
10 any Opus Shareholders. The Court further reserves the right to adjourn the date of the  
11 Final Hearing without further notice to Opus Shareholders, and retains jurisdiction to  
12 consider all further matters related to the *Klein* Action or the Settlement.

13  
14 SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2018.

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17 \_\_\_\_\_  
The Honorable André Birotte, Jr.  
United States District Court Judge  
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# EXHIBIT B-1

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MELVYN KLEIN, Derivatively on  
Behalf of Nominal Defendant OPUS  
BANK,

Plaintiff,

v.

STEPHEN H. GORDON, MARK CICIRELLI,  
MARK E. SCHAFFER, MICHAEL MEYER,  
ROBERT SHACKLETON, THOMAS M.  
BOWERS, CURTIS A. GLOVIER, and  
DAVID KING,

Defendants,

And

OPUS BANK, a California Corporation,

Nominal Defendant.

Case No. 8:17-CV-00123(AB)(JPR)

**NOTICE OF SHAREHOLDER  
DERIVATIVE ACTION, PROPOSED  
SETTLEMENT AND SETTLEMENT  
HEARING**

Judge: Hon. André Birotte, Jr.

Courtroom: 7B – First Street

Action Filed: January 24, 2017

**TO: ALL PERSONS WHO OWNED OPUS BANK (“OPUS,” OR THE “BANK”) COMMON STOCK AS OF January 29, 2018.**

**PLEASE READ THIS NOTICE CAREFULLY BECAUSE YOUR LEGAL RIGHTS MAY BE AFFECTED.**

**THIS IS NOT A SOLICITATION.**

On January 29, 2018, Opus, in its capacity as a nominal defendant, entered into a Stipulation of Settlement (the “Stipulation”) in the shareholder derivative actions<sup>1</sup> filed in the U.S. District Court for the Central District of California, styled *Klein v. Gordon, et al.*, No. 8:17-CV-00123(AB)(JPR) (C.D. Cal.) (“*Klein* action”) and the Superior Court of California, Los Angeles County, styled *Dillard v. Gordon, et al.*, No. BC651522 (Cal Super. Ct., L.A. Cnty.) (“*Dillard* Action”), against certain current and former directors and officers of the Bank, and against the Bank as a nominal defendant. The Stipulation of Settlement executed by counsel for the Parties as of January 29, 2018 (the “Stipulation”) and the Settlement contemplated therein

<sup>1</sup> A derivative claim is a claim brought by a shareholder on behalf of a company, rather than on behalf of himself or herself or the other shareholders of the company. The recovery sought in a derivative action is for the benefit of the company rather than directly for individual shareholders.

(the “Settlement”), including dismissal of all claims with prejudice in the *Klein* action, is subject to approval by the U.S. District Court for the Central District of California (the “Court”), and is contingent on the California state court granting voluntary dismissal with prejudice of the *Dillard* Action. The proposed Settlement requires the Bank to adopt certain additional corporate governance reforms, as outlined in Exhibit A to the Stipulation, and provides for a Fee and Expense Award to Plaintiffs’ Counsel to be determined at a later date subject to the mechanism described in the Stipulation at Section V, both of which are subject to Court approval.

This notice is a summary only and does not describe all of the details of the Stipulation. For full details of the matters discussed in this notice, please see the full Stipulation by visiting the Investor Relations portion of Opus’s website, or contact Plaintiffs’ Counsel at the address listed below. All capitalized terms used in this notice, unless otherwise defined herein, are defined as set forth in the Stipulation.

### Summary

On \_\_\_\_\_, 2018, the Court entered an order preliminarily approving the Stipulation and the Settlement contemplated therein and providing for notice of the Settlement (the “Preliminary Approval Order”). The Preliminary Approval Order further provides that the Court will hold a hearing (“Final Hearing”) on \_\_\_\_\_, 2018 at \_\_\_:\_\_\_ a.m./p.m. before the Honorable André Birotte, Jr. in Courtroom 7B of the United States District Court for the Central District of California, First Street Federal Courthouse, 350 W. 1st Street, Los Angeles, CA 90012, pursuant to Federal Rule of Civil Procedure 23.1, to among other things: (i) determine whether the proposed Settlement is fair, reasonable and adequate and in the best interests of the Bank and its shareholders; (ii) consider any objections to the Settlement submitted in accordance with the Notice; (iii) determine whether a Final Judgment substantially in the form attached as Exhibit C to the Stipulation should be entered dismissing all claims in the *Klein* Action with prejudice and releasing the Released Claims against the Released Persons; (iv) consider the payment to Plaintiffs’ Counsel of attorneys’ fees and for the reimbursement of expenses; (v) consider the payment to Plaintiffs of Service Awards in an amount not to exceed \$2,500 each, which will be funded from the Fee and Expense Award; and (vi) consider any other matters that may properly be brought before the Court in connection with the Settlement.

Any Opus Shareholder who wishes to object to the fairness, reasonableness, or adequacy of the Settlement as set forth in the attached Stipulation, or to the proposed Fee and Expense Award and Service Awards, may file an objection. An objector must file with the Court a written statement of his, her or its objection(s): (a) clearly indicating that objector’s name, mailing address, daytime telephone number, and e-mail address (if any); (b) stating that the objector is objecting to the proposed Settlement and/or proposed Fee and Expense Award and Service Awards; (c) specifying the reason(s), if any, for each such objection made, including any legal support and/or evidence that such objector wishes to bring to the Court’s attention or introduce in support of such objection; and (d) identifying and supplying documentation showing how many shares of Opus common stock the objector owned as of January 29, 2018, when the objector purchased or otherwise acquired such shares, and proof that the objector still owns such Opus shares.

The objector must file such objections and supporting documentation with the Clerk of the Court, U.S. District Court Central District of California, Western Division, First Street Federal Courthouse, 350 W. 1st Street Los Angeles, CA 90012, not later than twenty-one (21) days prior to the Final Hearing, and, by the same date, copies of all such papers must also be received by each of the following persons:

**Counsel for Plaintiff Klein:**

Thomas J. McKenna  
GAINEY McKENNA & EGLESTON  
440 Park Avenue South, 5th Floor  
New York, NY 10016

**Counsel for Plaintiff Dillard:**

Laurence M. Rosen  
THE ROSEN LAW FIRM, P.A.  
275 Madison Avenue, 34th Floor  
New York, NY 10016

**Counsel for Defendants and Opus:**

Eric A. Kuwana  
KATTEN MUCHIN ROSENMAN LLP  
2900 K Street NW North Tower - Suite 200  
Washington, DC 20007

An objector may file an objection on his, her or its own or through an attorney hired at his, her or its own expense. If an objector hires an attorney to represent him, her or it for the purposes of making such objection pursuant to this paragraph, the attorney must effect service of a notice of appearance on the counsel listed above and file such notice with the Court no later than twenty-one (21) days before the Final Hearing. Any Opus Shareholder who does not timely file and serve a written objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred. Any submissions by the Parties in opposition or response to objections shall be filed with the Court no later than seven (7) days before the Final Hearing.

Any objector who files and serves a timely, written objection in accordance with the instructions above and herein, may appear at the Final Hearing either in person or through counsel retained at the objector's expense. Objectors need not attend the Final Hearing, however, in order to have their objections considered by the Court. Timely objectors or their attorneys intending to appear at the Final Hearing are required to indicate in their written objection (or in a separate writing submitted to the counsel listed in the preceding paragraph no later than twenty-one (21) days prior to the Final Hearing) that they intend to appear at the Final Hearing and identify any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Final Hearing. Objectors or their attorneys intending to appear at the Final Hearing must also, no later than twenty-one (21) days prior to the Final Hearing, file with the Court, and serve upon counsel listed in the above paragraph, a notice of intention to appear, setting forth the name and address of anyone intending to appear. Any objector who does not timely file and serve a

notice of intent to appear in accordance with this paragraph shall not be permitted to appear at the Final Hearing, except for good cause shown.

If you are a current holder of Opus common stock and do not take steps to appear in this action and object to the proposed Settlement, you will be bound by the Final Judgment of the Court and will forever be barred from raising an objection to such settlement in this or any other action or proceeding, and from pursuing any of the Released Claims.

If you held Opus common stock as of January 29, 2018 and continue to hold such stock, you may have certain rights in connection with the proposed Settlement. You may obtain further information by contacting Plaintiffs' Counsel at: Thomas J. McKenna, Esq., Gainey McKenna & Egleston, 440 Park Avenue South, 5th Floor, New York, NY 10016, Telephone: (212) 983-1300, [tjmckenna@gme-law.com](mailto:tjmckenna@gme-law.com); or Laurence M. Rosen, The Rosen Law Firm, P.A., 275 Madison Avenue, 34th Floor, New York, NY 10016, Telephone: (212) 686-1060, [lrosen@rosenlegal.com](mailto:lrosen@rosenlegal.com).

**PLEASE DO NOT CALL THE COURT OR OPUS REGARDING THIS NOTICE.**

# EXHIBIT C

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MELVYN KLEIN, Derivatively on  
Behalf of Nominal Defendant OPUS  
BANK,  
Plaintiff,

v.

STEPHEN H. GORDON, MARK  
CICIRELLI, MARK E. SCHAFFER,  
MICHAEL MEYER, ROBERT  
SHACKLETON, THOMAS M.  
BOWERS, CURTIS A. GLOVIER, and  
DAVID KING,

Defendants,

And

OPUS BANK, a California Corporation,  
Nominal Defendant.

Case No. 8:17-CV-00123(AB)(JPR)

**[PROPOSED] FINAL JUDGMENT**

Judge: Hon. André Birotte, Jr.  
Courtroom: 7B – First Street  
Action Filed: January 24, 2017

1 This matter came before the Court for a hearing pursuant to the Order of this  
2 Court entered on \_\_\_\_\_, 2018 (“Preliminary Approval Order”), on the  
3 application of the Parties for approval of the Settlement set forth in the Stipulation of  
4 Settlement executed by counsel for the Parties as of January 29, 2018 (the  
5 “Stipulation”). All capitalized terms used herein have the meanings set forth and  
6 defined in the Stipulation.

7 The Court has received a declaration attesting to the filing of the Notice with  
8 the United States Securities and Exchange Commission; and the publication of the  
9 Notice in a press release and/or the publication of the Notice in *Investor’s Business*  
10 *Daily*; and the posting of the Notice, together with the Stipulation, on the Investors  
11 Relations portion of Opus’s website in accordance with the Preliminary Approval  
12 Order, due and adequate notice having been given to Opus Shareholders as required  
13 by the Preliminary Approval Order, and the Court having considered all papers filed  
14 and proceedings in this *Klein* Action and otherwise being fully informed of the  
15 matters herein, and good cause appearing therefore, IT IS HEREBY ORDERED,  
16 ADJUDGED AND DECREED as follows:

17 1. This Court has jurisdiction over the subject matter of the *Klein* Action,  
18 including the terms and conditions of the Stipulation and all exhibits thereto, and over  
19 Parties to the Stipulation.

20 2. Based on evidence submitted by Opus’s counsel, the Court finds that the  
21 Notice was published according to this Court’s Preliminary Approval Order. This  
22 Court further finds that the form and content of the Notice, as previously preliminarily  
23 approved by the Court, complied with the requirements of Federal Rule of Civil  
24 Procedure 23.1, satisfied the requirements of due process, and constituted due and  
25 sufficient notice of the matters set forth therein.

26 3. A full opportunity has been offered to Opus Shareholders to object to the  
27 proposed Settlement and to participate in the hearing thereon, and as such, all Opus  
28 Shareholders are bound by this Order.

1           4.     The Settlement is found to be fair, reasonable, adequate and in the best  
2 interests of Opus and Opus Shareholders.

3           5.     The Court finds, for settlement purposes, that: (1) the *Klein* Action was  
4 properly brought as a shareholder derivative suit pursuant to Federal Rule of Civil  
5 Procedure 23.1; and (2) Plaintiff Melvyn Klein adequately represented the interests of  
6 Opus Shareholders in enforcing the rights of Opus.

7           6.     The Stipulation and the terms of the proposed Settlement set forth therein  
8 are, in all respects, hereby finally approved. The Parties to the Stipulation are directed  
9 to consummate the Settlement in accordance with the terms and provisions of the  
10 Stipulation.

11           7.     In accordance with Paragraph 1(p) of the Stipulation, for purposes of this  
12 Final Judgment the term “Released Persons” shall mean: (a) Opus and the Defendants,  
13 as well as any person, partnership, bank, firm, corporation, limited liability company,  
14 trust or other entity or organization in which Opus or any Defendant has a controlling  
15 interest or which is or was related to or affiliated with any of them; and (b) with  
16 respect to each of the Persons in subsection (a), their respective past, present or future  
17 directors and officers, including but not limited to Richard A. Sanchez, Michael L.  
18 Allison, Marcos Alvarado and Norman B. Rice; and their respective past, present or  
19 future employees, insurers, reinsurers, attorneys, agents, partners, principals, advisors,  
20 investment advisors, auditors, accountants, trustees, underwriters, investment bankers,  
21 subsidiaries, parents, successors, predecessors, heirs, Immediate Family, and anyone  
22 acting or purporting to act for or on behalf of any of them or their successors.

23           8.     In accordance with Paragraph 1(o) of the Stipulation, for purposes of this  
24 Final Judgment the term “Released Claims” shall mean: any and all claims, rights,  
25 demands, causes of action or liabilities of any kind, nature and character whatsoever  
26 (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert  
27 or consulting fees, and any other costs, expenses or liability whatsoever), whether  
28 based on federal, state, local, statutory or common law, or any other law, rule or

1 regulation, whether foreign or domestic, whether fixed or contingent, accrued or  
2 unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured,  
3 whether known or unknown including, without limitation, Unknown Claims (as  
4 defined below) (collectively “Claims”) against any of the Released Persons that have  
5 been, could have been, or could in the future be, asserted in the Derivative Actions or  
6 in any other forum or proceeding by any Person (including but not limited to  
7 Plaintiffs) derivatively on behalf of Opus, or by Opus itself against any of the  
8 Released Persons that arise out of or are related, directly or indirectly, in any way to:

9 (a) any of the facts, matters, occurrences, actions, practices, conduct, events,  
10 transactions, statements, disclosures, representations, misrepresentations,  
11 omissions, or failures to act that were involved, set forth, referred to,  
12 asserted, alleged, or that could have been alleged in the Derivative  
13 Actions including, but not limited to, claims for violations of Section  
14 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9  
15 promulgated thereunder, breach of fiduciary duty, abuse of control,  
16 mismanagement, gross mismanagement, waste of corporate assets,  
17 misappropriation of information, unjust enrichment, insider trading,  
18 contribution and indemnification, money damages, disgorgement, any  
19 and all demands, actions, damages, claims, rights or causes of action, or  
20 liabilities whatsoever; or

21  
22 (b) that would have been barred by res judicata had either of the Derivative  
23 Actions been fully litigated to a final judgment,

24 *provided that* Released Claims shall not include claims to enforce the Settlement.  
25 Notwithstanding the foregoing, “Released Claims” does not include (1) claims  
26 relating to the enforcement of the Settlement or its terms and (2) the claims alleged in  
27 *Schwartz v. Opus Bank, et al.*, No. 2:16-CV-7991 (C.D. Cal.).  
28

1           9. In accordance with Paragraph 1(s) of the Stipulation, for purposes of this  
2 Final Judgment the term “Unknown Claims” shall mean: any Released Claims that  
3 Plaintiffs, Opus or any Opus Shareholder (claiming in the right of, or on behalf of, the  
4 Bank) does not know or suspect to exist in his, her or its favor at the time of the  
5 release of the Released Persons which, if known by him, her or it, might have affected  
6 his, her or its settlement with and release of the Released Persons, or might have  
7 affected his, her or its decision not to object to this Settlement. Unknown Claims  
8 include those claims in which some or all of the facts comprising the claim may be  
9 suspected, or even undisclosed or hidden. With respect to any and all Released  
10 Claims, Plaintiffs, and Opus stipulate and agree that, upon the Effective Date, they  
11 shall expressly waive, and every Opus Shareholder shall be deemed to have, and by  
12 operation of the Final Judgment shall have, expressly waived the provisions, rights,  
13 and benefits of California Civil Code § 1542, which provides:

14           **A general release does not extend to claims which the creditor does**  
15 **not know or suspect to exist in his or her favor at the time of**  
16 **executing the release, which if known by him or her must have**  
17 **materially affected his or her settlement with the debtor.**

18 Plaintiffs and Opus shall expressly waive, and every Opus Shareholder shall be  
19 deemed to have, and by operation of the Final Judgment shall have, expressly waived  
20 any and all provisions, rights, and benefits conferred by any law of any state or  
21 territory of the United States, or principle of common law or foreign law, which is  
22 similar, comparable or equivalent in effect to California Civil Code § 1542.

23           Plaintiffs, Opus and any Opus Shareholder may hereafter discover facts in  
24 addition to or different from those which he, she or it now knows or believes to be true  
25 with respect to the subject matter of the Released Claims, but Plaintiffs and Opus shall  
26 expressly have, and every Opus Shareholder shall be deemed to have, and by  
27 operation of the Final Judgment shall have, fully, finally, and forever settled and  
28 released any and all Released Claims, known or unknown, suspected or unsuspected,

1 contingent or non-contingent, whether or not concealed or hidden, which now exist, or  
2 heretofore have existed, upon any theory of law or equity now existing or coming into  
3 existence in the future, including, but not limited to, conduct which is negligent,  
4 reckless, intentional, with or without malice, or a breach of any duty, law or rule,  
5 without regard to the subsequent discovery or existence of such different or additional  
6 facts. Plaintiffs and Opus acknowledge, and every Opus Shareholder shall be deemed  
7 by operation of the Final Judgment to have acknowledged, that the foregoing waivers  
8 were separately bargained for and a key element of the Settlement.

9  
10 10. This *Klein* Action and all claims contained therein, as well as all  
11 Released Claims, are hereby dismissed with prejudice in their entirety, on the merits,  
12 as against all Released Persons. Each party shall bear its own fees and costs, except as  
13 set forth herein.

14 11. Upon the Effective Date, Plaintiffs, Opus and all current and former  
15 Opus Shareholders, on behalf of themselves, and each of their respective personal  
16 representatives, Immediate Family, trustees, heirs, executors, administrators, parent  
17 entities, associates, affiliates, predecessors, successors and assigns, and any other  
18 Person claiming (now or in the future) to be acting on behalf of any of them, shall be  
19 deemed to have, and by operation of this Final Judgment shall have, fully, finally, and  
20 forever released, relinquished, settled and discharged all Released Claims against the  
21 Released Persons and shall be permanently barred and enjoined from instituting,  
22 commencing, participating in, continuing, maintaining, asserting or prosecuting any  
23 Released Claim against any of the Released Persons, or assisting any Person in  
24 instituting, commencing, participating in, continuing, maintaining, asserting or  
25 prosecuting any Released Claim against any of the Released Persons. Nothing herein  
26 shall in any way impair or restrict the rights of any of the Parties to enforce the terms  
27 of this Stipulation.

28 12. Upon the Effective Date, the Released Persons shall be deemed to have,  
and by operation of the Final Judgment shall have, fully, finally, and forever released,

1 relinquished, and discharged Plaintiffs and Plaintiffs' Counsel from all claims  
2 (including Unknown Claims), arising out of, relating to, or in connection with the  
3 defense, institution, prosecution, assertion, settlement, or resolution of the Released  
4 Claims. Nothing herein shall in any way impair or restrict the rights of any of the  
5 Parties to enforce the terms of this Stipulation.

6 13. Pursuant to the Stipulation, the Effective Date of the Settlement shall not  
7 occur until, among other things, the *Dillard* Action has been dismissed with prejudice  
8 and that dismissal order is Final.

9 14. Plaintiffs' Counsel in the action are hereby awarded attorneys' fees and a  
10 reimbursement of expenses collectively totaling \$\_\_\_\_\_ ("Fee and Expense  
11 Award"). This Court finds that this amount is fair and reasonable under the facts and  
12 circumstances of this case. Payment of such award of attorneys' fees and  
13 reimbursement of expenses shall be made in accordance with the provisions of the  
14 Stipulation.

15 15. Plaintiffs are each awarded Service Awards in the amount of \$2,500,  
16 which shall be funded from Plaintiffs' Counsel's Fee and Expense Award.

17 16. This Final Judgment, the Stipulation and all of its provisions, and any  
18 negotiations, proceedings or agreements relating to the Stipulation and the Settlement,  
19 and any matters arising in connection with such negotiations, proceedings or  
20 agreements, and any acts performed or documents executed pursuant to or in  
21 furtherance of this Stipulation:

22 a) shall not be offered or received against any of the Released  
23 Persons as evidence of a presumption, concession, or admission of any kind;

24 b) shall not be offered or received against any of the Released  
25 Persons as evidence of an admission by any of those Released Persons with respect to  
26 the truth of any fact alleged in any of the Derivative Actions or the validity of any  
27 Released Claim, or the deficiency of any defense that has been or could have been  
28 asserted, or of any liability, negligence, fault, or wrongdoing of the Released Persons;

1 c) shall not be offered or received against the Released Persons as  
2 evidence of any fault, misrepresentation, omission or other actionable conduct with  
3 respect to any statement or written document approved or made by any of the  
4 Released Persons;

5 d) shall not be offered or received against the Released Persons as  
6 evidence of any liability, negligence, fault or wrongdoing, or in any way referred to  
7 for any other reason as against any of the Released Persons, in any other civil,  
8 criminal or administrative action or proceeding, other than such proceedings as may  
9 be necessary to effectuate the provisions of this Stipulation; provided, however, that if  
10 this Stipulation is approved by the Court, the Released Persons may refer to it to  
11 effectuate the release of Released Claims and other liability protections granted them  
12 hereunder;

13 e) shall not be construed against any of the Released Persons as an  
14 admission or concession that the consideration to be given hereunder represents the  
15 amount that could be or would have been recovered after trial;

16 f) shall not be construed as or received in evidence as an admission,  
17 concession or presumption against Plaintiffs that any of their claims are without merit,  
18 or that any defenses asserted by the Defendants have any merit, or that damages  
19 recoverable in the Derivative Actions would not have exceeded the Settlement  
20 Amount; and

21 g) shall not, in the event of a Termination, be used by any Party for  
22 any purpose in any trial in any of the Derivative Actions, *provided that*, any Party may  
23 file or introduce this Stipulation and/or the Final Judgment in any action or proceeding  
24 that may be brought to enforce the terms of this Stipulation and/or the Final Judgment,  
25 or any action or proceeding related to rights or claims of Defendants relating to  
26 indemnification and/or advancement in connection with the Derivative Actions.

27 17. Except in the event of a Termination, the Parties agree not to assert under  
28 Rule 11 of the Federal Rules of Civil Procedure or any similar law, rule or regulation,

1 that the Derivative Actions were brought or defended in bad faith or without a  
2 reasonable basis. The Parties agree that the terms of this Settlement were negotiated  
3 at arms' length and in good faith by the Parties and reflect a settlement that was  
4 reached voluntarily based upon adequate information and after consultation with their  
5 respective experienced legal counsel.

6 18. Without in any way affecting the finality of this Final Judgment, this  
7 Court shall retain jurisdiction over the Parties to the Stipulation and the Released  
8 Parties with respect to all matters related to the *Klein* Action and over all proceedings  
9 related to the implementation and enforcement of the terms of the Stipulation,  
10 including all matters pertaining to requests for attorneys' fees and expenses.

11 19. Any order regarding an award of attorneys' fees and expenses, or any  
12 appeal, modification or change of such an order, shall in no way disturb or affect the  
13 finality of this Final Judgment and shall be considered separate from this Final  
14 Judgment.

15 20. This Settlement shall be a final and complete resolution of all disputes  
16 among the parties. No party to the Stipulation may assert in any forum that the  
17 Derivative Actions were brought, commenced or prosecuted by the Plaintiffs or their  
18 counsel in bad faith or that the Derivative Actions were not filed or raised in good  
19 faith or was not settled voluntarily after negotiating at arm's-length and in good faith  
20 after consultation with competent legal counsel.

21 21. Nothing in this Final Judgment constitutes or reflects a waiver, release or  
22 discharge of any rights or claims of Defendants against their insurers, or their insurers'  
23 subsidiaries, predecessors, successors, assigns, affiliates, or representatives.

24 22. The Parties are hereby authorized, without further approval of the Court,  
25 to unanimously agree to and adopt in writing such amendments, modifications, and  
26 expansions of the Stipulation and all exhibits attached thereto, provided that such  
27 amendments, modifications, and expansions of the Stipulation are done in accordance  
28 with the terms of Paragraph 21 of the Stipulation, are not materially inconsistent with

1 this Final Judgment and do not materially limit the rights of Opus Shareholders or the  
2 Released Persons under the Stipulation.

3 23. In the event that the Settlement does not become effective in accordance  
4 with the terms of the Stipulation, then this Final Judgment shall be rendered null and  
5 void to the extent provided by and in accordance with the Stipulation and shall be  
6 vacated, and in such event, all orders entered and releases delivered in connection  
7 herewith shall be null and void to the extent provided by and in accordance with the  
8 Stipulation, and the provisions of Paragraph 17 of the Stipulation shall apply.

9 24. The provisions of this Final Judgment constitute a full and complete  
10 adjudication of the matters considered and adjudged herein, and the Court determines  
11 that there is no just reason for delay in the entry of judgment. The Clerk is hereby  
12 directed to immediately enter this Final Judgment.

13  
14 SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2018.

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17 \_\_\_\_\_  
18 The Honorable André Birotte, Jr.  
19 United States District Court Judge  
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