

1 This Amended Corrected Stipulation and Agreement of Settlement (“Stipulation”),
2 dated August 27, 2021, is made and entered into by and among the following Parties (as
3 defined herein), by and through their respective counsel of record: (1) plaintiffs Kristopher
4 Gordon (“Gordon”), and Colleen Witmer (“Witmer” and collectively with Gordon,
5 “Plaintiffs”)¹; (2) nominal defendant Banc of California, Inc. (“Banc”, the “Company,” or
6 the “Nominal Defendant”); and (3) individual defendants Halle J. Benett, Jonah F. Schnel,
7 Jeffrey Karish, Robert Sznewajs, Eric L. Holoman, Chad T. Brownstein, Richard J.
8 Lashley, Douglas H. Bowers, and John C. Grosvenor (collectively, the “Individual
9 Defendants,” and together with Banc and Plaintiffs, the “Parties”). This Stipulation is
10 intended by the Parties to settle the above-captioned stockholder derivative action, and to
11 fully, finally, and forever resolve, discharge, and settle the Released Claims,² subject to the
12 terms and conditions set forth herein.

13 **I. DEFINITIONS**

14 As used in this Stipulation, the following terms have the meaning specified below.

15 1.1 “Action” means the above-captioned consolidated stockholder derivative
16 action pending in the United States District Court, Central District of California, captioned
17 *In re Banc of California, Inc. Stockholder Derivative Litigation*, Case No. 8:19-cv-00621-
18 DMG-DFM.

19 1.2 “Board” means the Board of Directors of the Banc of California.

20 1.3 “Court” means the United States District Court for the Central District of
21 California.

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¹ Plaintiff Donald Johnston (“Johnston”) plans to file a request to withdraw as plaintiff in this consolidated derivative action.

² All capitalized terms not otherwise defined are defined in section VII.

1 advisors, employees, affiliates, predecessors, successors, parents, subsidiaries, and
2 divisions.

3 1.9 “Directors” mean current and former individual members of the Board of
4 Directors of Banc of California.

5 1.10 “Effective Date” means the first date by which all of the events and conditions
6 specified in Paragraph 6.1 herein have been met and have occurred.

7 1.11 “Escrow Account” means an interest-bearing escrow account to be established
8 and maintained by Plaintiffs’ Counsel or their agent for the purpose of payment of the Fee
9 and Expense Amount, as provided in Paragraph 5.2 of this Stipulation.

10 1.12 “Execution Date” means the date this Stipulation has been signed by all the
11 signatories through their respective counsel.

12 1.13 “Fee and Expense Amount” means the sum to be paid to Plaintiffs’ Counsel
13 for their attorneys’ fees and expenses, detailed in Paragraph 5 herein, subject to Court
14 approval, in recognition of the substantial benefits conferred upon Banc and Banc
15 stockholders by the initiation, prosecution, and settlement of the Action.

16 1.14 “Final” means the date when the Order and Final Judgment has not been
17 reversed, vacated, or modified in any way and is no longer subject to appellate review,
18 either because of disposition on appeal and conclusion of the appellate process or because
19 of passage, without action, of time for seeking appellate review. More specifically, it is
20 that situation when (1) either no appeal has been filed and the time has passed for any
21 notice of appeal to be timely filed in the Action; or (2) an appeal has been filed and the
22 court of appeals has either affirmed the judgment or dismissed that appeal and the time for
23 any reconsideration or further appellate review has passed; or (3) a higher court has granted
24 further appellate review and that court has either affirmed the underlying Order and Final
25 Judgment or affirmed the court of appeals’ decision affirming the judgment or dismissing
26 the appeal.

1 1.15 “Individual Defendants” mean, collectively, Halle J. Benett, Jonah F. Schnel,
2 Jeffrey Karish, Robert Sznewajs, Eric L. Holoman, Chad T. Brownstein, Richard J.
3 Lashley, Douglas H. Bowers, and John C. Grosvenor.

4 1.16 “Notice to Banc of California Stockholders” or “Notice” means the Notice of
5 Proposed Settlement, substantially in the form of Exhibit D attached hereto.

6 1.17 “Order and Final Judgment” means the [Proposed] Order and Final Judgment
7 to be rendered by the Court, substantially in the form attached hereto as Exhibit F.

8 1.18 “Party” or “Parties” mean, collectively, each of the Plaintiffs (on behalf of
9 themselves and derivatively on behalf of Banc), each of the Individual Defendants, and
10 Nominal Defendant Banc of California.

11 1.19 “Person” or “Persons” means an individual, corporation, limited liability
12 corporation, professional corporation, partnership, limited partnership, limited liability
13 partnership, association, joint stock company, estate, legal representative, trust,
14 unincorporated association, government or any political subdivision or agency thereof, and
15 any business or legal entity, and their spouses, heirs, predecessors, successors,
16 representatives, or assignees.

17 1.20 “Plaintiffs” means collectively plaintiffs Kristopher Gordon and Colleen
18 Witmer.

19 1.21 “Plaintiffs’ Counsel” means, collectively, (1) Robbins LLP; (2) Schubert
20 Jonckheer & Kolbe LLP; and (3) Holzer & Holzer, LLC.

21 1.22 “Plaintiffs’ Released Claims” means all actions, suits, claims, demands,
22 rights, liabilities, and causes of action of every nature, and description whatsoever,
23 including both known claims or Unknown Claims, that have been, could have been, or in
24 the future can or might be asserted in any federal, state or foreign court, tribunal, forum or
25 proceeding by Banc, Plaintiffs’ Released Persons, or any current or former Banc
26 stockholder derivatively on behalf of Banc of California, against any of Defendants’

1 Released Persons, based upon, arising out of, or related to the allegations, facts,
2 transactions, events, occurrences, acts, disclosures, statements, representations, omissions,
3 or failures to act relating to all matters involved, set forth, referred to, or alleged in any
4 complaint(s) filed in the Derivative Actions or the Demand Letters; *provided however*, that
5 “Released Claims” shall not include any claims to enforce the Settlement. For the
6 avoidance of doubt, “Released Claims” does not include any claims by any Defendant
7 against Steven Sugarman related to the litigation filed in Los Angeles Superior Court
8 captioned *Sugarman et al. v. Bennett, et al.*, L.A.S.C. Case No. 19STCV36697.

9 1.23 “Plaintiffs’ Released Persons” mean Plaintiffs, Plaintiffs’ Counsel and each
10 of their immediate family members, spouses, heirs, executors, administrators, successors,
11 trustees, attorneys, personal or legal representatives, advisors, estates, assigns, and agents
12 thereof.

13 1.24 “Preliminary Approval Order” means the [Proposed] Order Preliminarily
14 Approving Settlement to be entered by the Court, substantially in the form of Exhibit C
15 attached hereto, including, *inter alia*, preliminarily approving the terms and conditions of
16 the Settlement as set forth in this Stipulation, directing that Notice and Summary Notice be
17 provided to Banc stockholders, and scheduling a Settlement Hearing to consider whether
18 the Settlement and the Fee and Expense Amount should be finally approved.

19 1.25 “Released Claims” means Defendants’ Released Claims and Plaintiffs’
20 Released Claims.

21 1.26 “Released Parties” means Defendants’ Released Persons and Plaintiffs’
22 Released Persons.

23 1.27 “Settlement” means the settlement documented in this Stipulation.

24 1.28 “Settlement Hearing” means a hearing by the Court to review this Stipulation
25 and determine: (i) whether to enter the Order and Final Judgment; and (ii) all other matters
26 related to the Settlement that are properly before the Court.

1 1.29 “Stipulation” means this Stipulation and Agreement of Settlement.

2 1.30 “Summary Notice” means the Summary Notice of Proposed Settlement
3 substantially in the form of Exhibit E attached hereto.

4 1.31 “Unknown Claims” means any of Plaintiffs’ Released Claims and
5 Defendants’ Released Claims that any Party does not know or suspect exists in his, her, or
6 its favor at the time of the Settlement, including, without limitation, those claims which, if
7 known, might have affected the decision to enter into, or not object to, this Settlement. The
8 Parties expressly waive, relinquish, and release any and all provisions, rights, and benefits
9 conferred by or under section 1542 of the California Civil Code (“§ 1542”) or any other
10 law of the United States or any state or territory of the United States, or principle of
11 common law, which is similar, comparable, or equivalent to § 1542, which provides:

12 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
13 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT
14 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
15 RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE
16 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

17 The Parties acknowledge that they may hereafter discover facts in addition to or
18 different from those now known or believed to be true by them, with respect to Plaintiffs’
19 Released Claims and Defendants’ Released Claims in the Settlement, as the case may be,
20 but it is the intention of the Parties to completely, fully, finally, and forever compromise,
21 settle, release, discharge, and extinguish any and all Plaintiffs’ Released Claims and
22 Defendants’ Released Claims that are known or unknown, suspected or unsuspected,
23 contingent or absolute, apparent or unapparent, which do not exist, or heretofore existed,
24 or may hereafter exist, and without regard to the subsequent discovery of additional or
25 different facts. The Parties acknowledge that the foregoing waiver was separately
26 bargained for and is a key element of the Stipulation of which this release is a part.

1 1.32 “Galanis” means Jason Galanis.

2 1.33 “Aurelius Blog” means the October 18, 2016, post on SeekingAlpha.com by
3 “Aurelius” entitled “BANC: Extensive Ties to Notorious Fraudster Jason Galanis Make
4 Shares Un-Investible.”

5 1.34 “Special Committee” means the Board committee created after the Aurelius
6 Blog was published that, among other things, assessed connections between Galanis and
7 Banc and Banc’s officers and directors.

8 1.35 “*Gordon Demand Futility Action*” means the stockholder derivative action
9 captioned *Gordon v. Szniewajs, et al.*, Case No. 8:17-cv-1678 (C.D. Cal.), filed on
10 September 26, 2017, alleging certain individuals breached their fiduciary duties in
11 connection with, among other things, the Board’s response to the allegations made in the
12 Aurelius Blog.

13 1.36 “Witmer Demand” means the written demand sent by Witmer on November
14 17, 2017, to the Board demanding the Board investigate and, if appropriate, pursue
15 litigation relating to facts substantially similar to those alleged in the *Gordon Demand*
16 *Futility Action*, including undisclosed relationships between certain of Banc’s top
17 executives and Galanis, other undisclosed conflicts of interest and related party
18 transactions involving members of the Board, and alleged accounting manipulations.

19 1.37 “*First Witmer Demand Refused Action*” means the stockholder derivative
20 action captioned *Witmer v. Sugarman, et al.*, Case No. 8:18-cv-00246 (C.D. Cal.), filed
21 by Witmer on February 12, 2018, alleging wrongful refusal of the Witmer Demand.

22 1.38 “Johnston Demand” means the written demand sent on May 22, 2018, by
23 Johnston to the Board demanding that the Board investigate, address, remedy, and
24 commence proceedings against certain of the Company’s current and former officers and
25 directors for breach of fiduciary duties, violations of sections 10(b) and 20(a) of the
26 Securities Exchange Act of 1934, and any applicable laws, rules, and regulations related

1 to the Company’s internal controls and the alleged improper relationship between Banc’s
2 top executives, its Board, and Galanis.

3 1.39 “Gordon Demand” means the July 3, 2018, written demand sent by Gordon
4 to the Board demanding that the Board commence a good faith investigation into
5 allegations of misconduct by certain current and former officers and directors and
6 requested the Board take appropriate steps to remedy the identified breaches of fiduciary
7 duty and remedy Banc’s internal controls.

8 1.40 “November 15, 2019 Demand” means the written litigation demand sent on
9 November 15, 2019, by Gordon, Johnston, and Witmer collectively to Banc regarding
10 additional potential misconduct regarding, among other things, potentially improper
11 kickbacks, undisclosed conflicts of interest, and retaliation against whistleblowers.

12 1.41 “Demand Letters” means the Witmer Demand, the Johnston Demand,
13 Gordon Demand, and the November 15, 2019 Demand.

14 1.42 “Rejection Letters” mean the January 4, 2019, letters sent by Banc rejecting
15 each of the Witmer Demand, the Johnson Demand, and the Gordon Demand.

16 1.43 “*Gordon Demand Refused Action*” means the stockholder derivative action
17 filed by Gordon on April 2, 2019, in the United States District Court for the Central District
18 of California, captioned *Gordon v. Bennett, et al.*, Case No. 8:19-cv-00621-DMG-DFM
19 (C.D. Cal.), alleging Defendants violated their fiduciary duties in connection with the
20 misconduct described in the Gordon Demand and further alleging the Board’s decision to
21 reject the demand was improper under Maryland law.

22 1.44 “*Johnston Demand Refused Action*” means the stockholder derivative action
23 in the United States District Court for the Central District of California, captioned *Johnston*
24 *v. Sznewajs, et al.*, Case No. 8:19-cv-01152-AG-DFMx, filed on June 10, 2019, by
25 Johnston similarly alleging breaches of fiduciary duty arising from substantially the same
26 misconduct as that alleged in the *Gordon Demand Refused Action*.

1 1.45 “Second *Witmer* Demand Refused Action” means the stockholder derivative
2 action in the United States District Court for the Central District of California, captioned
3 *Witmer v. Sugarman, et al.*, Case No. 2:19-cv-05488-AG-DFMx, filed on June 24, 2019,
4 by Witmer also alleging misconduct substantially similar to that alleged in the *Gordon*
5 Demand Refused Action and the *Johnston* Demand Refused Action.

6 1.46 “Derivative Actions” means the Action, the *Gordon* Demand Futility Action,
7 the First *Witmer* Demand Refused Action, the *Gordon* Demand Refused Action, the
8 *Johnston* Demand Refused Action, and the Second *Witmer* Demand Refused Action.

9 1.47 “Consolidated Complaint” means the Verified Consolidated Shareholder
10 Derivative Complaint filed in the Action.

11 1.48 “December 6 Stipulation” means the stipulation filed on December 6, 2019,
12 that provided a briefing schedule for Defendants’ anticipated motions to dismiss the
13 Action.

14 **II. DESCRIPTION OF THE DERIVATIVE ACTIONS**

15 On September 26, 2017, Gordon filed the *Gordon* Demand Futility Action. Gordon
16 alleged he was excused from making a pre-litigation stockholder demand to investigate the
17 wrongdoing described in the *Gordon* Demand Futility Action because a majority of the
18 Board was conflicted and faced substantial personal liability for the conduct described in
19 the *Gordon* Demand Futility Action.

20 By Order dated June 13, 2018, the Court granted Defendants’ motions to dismiss the
21 *Gordon* Demand Futility Action, with leave to amend. On June 22, 2018, Gordon filed a
22 notice of voluntary dismissal of the *Gordon* Demand Futility Action.

23 On November 17, 2017, Witmer sent the Witmer Demand. On January 8, 2018,
24 Banc responded to the Witmer Demand, stating that the Company would not initiate any
25 investigation in response until the related, then-pending *Gordon* Demand Futility Action
26 was resolved.

1 On February 12, 2018, Witmer filed the First *Witmer* Demand Refused Action
2 alleging wrongful refusal of the Witmer Demand. By Order dated August 23, 2018, the
3 Court granted Banc's motion to dismiss the First *Witmer* Demand Refused Action.

4 On May 22, 2018, Johnston sent the Johnston Demand.

5 On July 3, 2018, after the *Gordon* Demand Futility Action was voluntarily
6 dismissed, Gordon sent the Gordon Demand.

7 On September 4, 2018, Johnston wrote to Banc requesting information relating to
8 the purported investigation by the Board into the stockholder demands.

9 On January 4, 2019, Banc sent the Rejection Letters stating that Banc had
10 investigated the subject matters raised in the demands and determined it would not be in
11 the best interest of the Company to pursue the claims alleged or implement any additional
12 remedial measures at the time.

13 On January 24, 2019, Gordon wrote the Board requesting documents demonstrating
14 the Board's process and conclusions in reaching its decision to reject the stockholders'
15 demands. On February 25, 2019, Johnston wrote Banc similarly requesting such books
16 and records. Banc declined to produce the requested books and records.

17 On April 2, 2019, Gordon filed the *Gordon* Demand Refused Action.

18 On June 10, 2019, Johnston filed the *Johnston* Demand Refused Action.

19 On June 24, 2019, Witmer filed the Second *Witmer* Demand Refused Action.

20 On September 23, 2019, the United States District Court for Central District of
21 California entered an order approving the Parties' stipulation to consolidate the *Gordon*
22 Demand Refused Action, *Johnston* Demand Refused Action, and the Second *Witmer*
23 Demand Refused Action, and appointed Schubert Jonckheer & Kolbe LLP and Robbins
24 LLP as co-lead counsel. *See Gordon* Demand Refused Action, ECF No. 56.

25 On November 15, 2019, Plaintiffs Gordon, Johnston, and Witmer sent the November
26 15, 2019 Demand.

1 On November 22, 2019, Plaintiffs filed the Consolidated Complaint alleging that the
2 Individual Defendants breached their fiduciary duties to Banc. The Consolidated
3 Complaint alleges that the Board’s decision to reject the stockholder demands was
4 improper under Maryland law.

5 On December 6, 2019, the Parties filed the December 6 Stipulation. On December
6 9, 2019, the Court entered an order approving the December 6 Stipulation.

7 **III. SETTLEMENT NEGOTIATIONS**

8 Shortly after the Court approved the December 6 Stipulation, the Parties commenced
9 negotiations to settle the Action. Plaintiffs’ Counsel state that, after obtaining Banc’s
10 confidential, internal policies reflecting its relevant internal controls, Plaintiffs’ Counsel
11 thoroughly analyzed Banc’s corporate governance, reviewed industry best practices, and
12 proposed a slate of thorough corporate governance reforms that could strengthen the
13 Company’s internal controls and form a basis for a settlement of the Action. The Parties
14 thereafter engaged in extensive and protracted arms’-length negotiations regarding the
15 corporate governance reforms, which included numerous phone calls and emails, and
16 several settlement proposals and counterproposals over the course of many months. The
17 Parties regularly sought, and the Court granted, extensions to the proposed briefing
18 schedule to accommodate the ongoing negotiations.

19 After significant and contentious arm’s-length negotiations, the Parties reached
20 agreement on the substantive terms of the proposed Settlement, which were memorialized
21 in a Memorandum of Understanding (“MOU”) dated April 6, 2021.

22 After signing the MOU, the Parties commenced negotiations relating to the
23 attorneys’ fees and expenses to be paid to Plaintiffs’ Counsel in recognition of the benefits
24 conferred on the Company through the Reforms. No agreement could be reached.
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1 **IV. PLAINTIFFS’ COUNSELS’ STATEMENTS ABOUT THEIR**
2 **INVESTIGATION, THE CLAIMS, AND THE SUBSTANTIAL**
3 **BENEFITS OF THE SETTLEMENT**

4 Plaintiffs’ Counsel believe and contend:

5 The claims asserted in the Action have merit, and Plaintiffs’ entry into this
6 Stipulation and Settlement is not intended to be and shall not be construed as an admission
7 or concession concerning the relative strength or merit of the claims alleged. However,
8 Plaintiffs and Plaintiffs’ Counsel recognize and acknowledge the significant risk, expense,
9 and length of continued proceedings necessary to prosecute the Action against the
10 Individual Defendants through trial and possible appeals.

11 Plaintiffs’ Counsel have taken into account the uncertain outcome and the risk of
12 any litigation, especially in complex cases such as the Action, as well as the difficulties
13 and delays inherent in such litigation. Plaintiffs’ Counsel are also mindful of the inherent
14 problems of establishing standing in derivative litigation, and the possible defenses to the
15 claims alleged.

16 Plaintiffs’ Counsel conducted an extensive investigation relating to the claims and
17 the underlying events alleged in the Action, including, but not limited to: (1) inspecting,
18 analyzing, and reviewing Banc’s public filings with the SEC, press releases,
19 announcements, transcripts of investor conference calls, and news articles; (2) consulting
20 with an accounting expert; (3) drafting litigation demand letters; (4) drafting the complaints
21 in the Action, including the Consolidated Complaint; (5) researching the applicable law
22 with respect to the claims asserted in the Action and the potential defenses thereto; (6)
23 reviewing and analyzing securities analysts’ reports and advisories and media reports about
24 the Company; (7) reviewing and analyzing the pleadings contained in the Securities Action,
25 as well as other lawsuits relevant to the allegations made in the Action; (8) researching the
26 Company’s internal corporate governance policies, processes, and procedures, as well as

1 those of the Company’s peers; (9) preparing and submitting a detailed settlement demand
2 and modified demands over the course of the Parties’ settlement negotiations; (10)
3 engaging in extensive settlement discussions with counsel for Defendants regarding the
4 specific facts of the Action, the perceived strengths and weakness of the claims and
5 defenses thereto, and the remedies that might be secured through litigation as compared to
6 those that could be secured through settlement; (11) negotiating the terms of a written
7 memorandum of understanding embodying the principal substantive settlement terms; and
8 (12) negotiating this comprehensive final Stipulation and Agreement of Settlement.

9 Based on Plaintiffs’ Counsel’s thorough review and analysis of the relevant facts,
10 allegations, defenses, and controlling legal principles, Plaintiffs’ Counsel believe that the
11 Settlement set forth in this Stipulation is fair, reasonable, and adequate, confers substantial
12 benefits upon Banc, and is in the best interests of the Banc and its stockholders.
13 Accordingly, Plaintiffs have agreed to settle the Action upon the terms and subject to the
14 conditions set forth herein.

15 **V. DEFENDANTS’ DENIAL OF WRONGDOING**

16 Defendants have denied and continue to deny each and all of the claims and
17 contentions alleged by Plaintiffs in the Derivative Actions and the Demand Letters, and the
18 Individual Defendants have expressly denied and continue to deny all charges of
19 wrongdoing or liability against them arising out of any of the conduct, statements, acts, or
20 omissions alleged, or that could have been alleged in the Action. Nonetheless, Defendants
21 have also taken into account the uncertainty and risks inherent in any litigation, especially
22 in complex cases like the Action. Defendants have, therefore, determined that it is in the
23 best interests of Banc and its stockholders for the Action to be settled in the manner and
24 upon the terms and conditions set forth in this Stipulation.

25 Neither this Stipulation, nor any of its terms or provisions, nor entry of the Order
26 and Final Judgment (as defined herein), nor any document or exhibit referred or attached

1 to this Stipulation, nor any action taken to carry out this Stipulation, is or may be construed
2 or used as evidence of the validity of any of Plaintiffs' Released Claims, or as an admission
3 by or against any of the Defendants or any Defendants' Released Persons of any fault,
4 wrongdoing, or concession of liability whatsoever.

5 **VI. BOARD APPROVAL**

6 The Board, in a good-faith exercise of its business judgment, has concluded that the
7 Reforms to be implemented and maintained by Banc as a result of the Settlement confer
8 benefits on the Company, and has approved the Settlement, and each of its terms as set
9 forth in this Stipulation, as being in the best interests of Banc and its stockholders.

10 **VII. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

11 Plaintiffs (on behalf of themselves and derivatively on behalf of the Banc), the
12 Individual Defendants, and Banc, by and through their respective counsel or attorneys of
13 record, hereby stipulate and agree that, subject to the approval of the Court, the
14 Consolidated Complaint, Defendants' Released Claims, and Plaintiffs' Released Claims,
15 which include, but are not limited to, the claims that have been or could have been asserted
16 in the Consolidated Complaint, and shall be finally and fully compromised, settled, and
17 released, and the Action shall be dismissed with prejudice, upon the terms and subject to
18 the conditions set forth herein as follows:

19 **1. Settlement Consideration.**

20 1.1 As a result of the filing, prosecution, and settlement of the Action,
21 Banc shall, within thirty (30) days after entry of an order granting final approval of the
22 settlement, implement (to the extent not already implemented) the corporate governance
23 reforms ("Reforms") set forth in Exhibits A and B hereto. Banc acknowledges that
24 Plaintiffs' litigation and settlement efforts were a substantial and material factor in causing
25 the Company to adopt, implement, and maintain the Reforms, as set forth in the attached
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1 Exhibits A and B. Banc acknowledges that the Reforms confer benefits on Banc and that
2 the Settlement is fair, reasonable, and in the best interests of the Company.

3 **2. Approval and Notice.**

4 2.1 Plaintiffs shall submit the Stipulation together with its exhibits to the
5 Court, and shall apply for entry of the Preliminary Approval Order, substantially in the
6 form of Exhibit C attached hereto, requesting, *inter alia*: (i) preliminary approval of the
7 Settlement set forth in this Stipulation; (ii) approval of the method of providing notice of
8 proposed Settlement to Banc stockholders; (iii) approval of the form of Notice attached
9 hereto as Exhibit D and the Summary Notice attached hereto as Exhibit E; and (iv) a date
10 for the Settlement Hearing.

11 2.2 Notice to Banc stockholders shall consist of a Notice of Pendency and
12 Proposed Settlement of Shareholder Derivative Action (“Notice”), which includes the
13 general terms of the Settlement set forth in this Stipulation and the date of the Settlement
14 Hearing, substantially in the form attached hereto as Exhibit D, as well as a Summary
15 Notice of Pendency and Proposed Settlement of Shareholder Derivative Action (“Summary
16 Notice”), substantially in the form attached hereto as Exhibit E.

17 2.3. Banc shall undertake the administrative responsibility for giving notice
18 to Banc stockholders and Banc or its insurance carriers shall be solely responsible for
19 paying the costs and expenses related to providing such notice to its stockholders. Within
20 fourteen (14) business days after the entry of the Preliminary Approval Order, Banc shall
21 cause the Stipulation of Settlement and Notice to be filed with the SEC along with an SEC
22 Form 8-K or other appropriate filing, and Banc shall publish the Summary Notice one time
23 in the national edition of *Investors’ Business Daily*. Banc shall also publish the SEC filing
24 with attachments on the Company’s website until the judgment becomes Final. The Parties
25 believe the content and manner of the notice, as set forth in this paragraph, constitutes
26 adequate and reasonable notice to Banc stockholders pursuant to applicable law and due

1 process. Prior to the Settlement Hearing, Defendants' Counsel shall file with the Court an
2 appropriate affidavit or declaration with respect to filing and posting the Notice and
3 Summary Notice.

4 2.4 Pending the Court's determination as to final approval of the
5 Settlement, Plaintiffs are barred and enjoined from commencing, prosecuting, instigating,
6 or in any way participating in the commencement or prosecution of any action asserting
7 any Released Claim against any of the Released Persons.

8 **3. Releases.**

9 3.1 Upon the Effective Date, Plaintiffs' Released Persons shall be deemed
10 to have, and by operation of the Final Judgment shall have, fully, finally and forever
11 released, relinquished, and discharged as against Defendants' Released Persons any and all
12 of Plaintiffs' Released Claims (including Unknown Claims), and shall forever be barred
13 and enjoined from instituting, commencing, or prosecuting any and all of Plaintiffs'
14 Released Claims against Defendants' Released Persons.

15 3.2 Upon the Effective Date, Defendants' Released Persons shall fully,
16 finally and forever release, relinquish and discharge as against Plaintiffs' Released Persons
17 any and all of Defendants' Released Claims, and shall forever be barred and enjoined from
18 instituting, commencing, or prosecuting any and all of Defendants' Released Claims
19 against Plaintiffs' Released Persons.

20 3.3 Nothing herein shall in any way impair or restrict the rights of any Party
21 to enforce the terms of the Stipulation.

22 **4. Plaintiffs' Counsel's Attorneys' Fees and Expenses.**

23 4.1 The Parties agree that Plaintiffs may make a motion to the Court
24 seeking an award of attorneys' fees and expenses (the "Fee and Expense Amount") for the
25 benefits conferred upon Banc through the Reforms. Banc reserves the right to oppose any
26 such motion. The Fee and Expense Amount approved by the Court will be payable by

1 Banc's directors' and officers' insurance carrier(s). The Individual Defendants shall have
2 no obligation to pay any portion of the Fee and Expense Amount or such other amount as
3 may be awarded by the Court.

4 4.2 The Fee and Expense Amount to the extent awarded by the Court or
5 such other amount as may be awarded by the Court shall constitute final and complete
6 payment for Plaintiffs' attorneys' fees and expenses that have been incurred or will be
7 incurred in connection with the Action. The Fee and Expense Amount shall be funded to
8 Plaintiffs' Counsel within 28 business days of the entry of the Final Approval Order (and
9 upon provision by Plaintiffs' Counsel of all required funding information and tax
10 identification numbers). In the event the Judgment fails to become Final, or any Fee and
11 Expense award is reversed or modified on appeal, then Plaintiffs' Counsel shall refund to
12 Defendants' insurers all attorneys' fees and expenses previously paid within within fifteen
13 (15) calendar days of receiving notice from Defendants or from a court of appropriate
14 jurisdiction.

15 4.3 Defendants shall have no responsibility for, and no liability with respect
16 to, the allocation of the attorneys' fees awarded among Plaintiffs' Counsel and/or to any
17 other person who may assert some claim thereto. Any proceeding, appeal, or petition
18 pertaining solely to the Fee and Expense Amount or reversal or modification thereof, shall
19 not operate to terminate, modify, or cancel this Stipulation, or affect or delay the Effective
20 Date or the finality of the Judgment approving this Stipulation and the Settlement of the
21 Action.

22 4.4 Except as otherwise provided herein, each of the Parties shall bear his,
23 her, or its own costs and expenses in connection with the Action; provided however, that
24 nothing in this Stipulation shall be construed to have any effect upon any Individual
25 Defendant's existing rights to indemnification or advancement from Banc or pursuant to
26 any applicable policy of insurance.

1 respective positions as of the Execution Date of this Stipulation; (b) all releases delivered
2 in connection with this Stipulation shall be null and void, except as otherwise provided for
3 in this Stipulation; (c) the Fee and Expense Amount paid to Plaintiffs' Counsel shall be
4 refunded and returned within fifteen (15) calendar days of receiving notice from
5 Defendants or from a court of appropriate jurisdiction; and (d) all negotiations,
6 proceedings, documents prepared and statements made in connection herewith shall be
7 without prejudice to the Parties, shall not be deemed or construed to be an admission by
8 any of the Parties of any act, matter, or proposition, and shall not be used in any manner
9 for any purpose in any subsequent proceeding in the Action or in any other action or
10 proceeding (other than with respect to enforcing the terms of this Stipulation). In such
11 event, the terms and provisions of the Stipulation shall have no further force and effect
12 with respect to the Parties and shall not be used in the Action or in any other proceeding
13 for any purpose, and any judgment or orders entered by the Court in accordance with the
14 terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.

15 **6. Miscellaneous Provisions.**

16 6.1 The Parties: (i) acknowledge that it is their intent to consummate this
17 Stipulation; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and
18 implement all terms and conditions of the Stipulation and to exercise their reasonable best
19 efforts to accomplish the foregoing terms and conditions of the Stipulation; provided,
20 however, that Defendants shall have no obligation to renegotiate any material terms of the
21 Stipulation. If any disputes arise out of the finalization of the Settlement itself, the Parties
22 to such disputes shall first meet and confer in an effort to resolve any disputes.

23 6.2 In the event that any part of the Settlement is found to be unlawful,
24 void, unconscionable, or against public policy by a court of competent jurisdiction, the
25 remaining terms and conditions of the Settlement shall remain intact.

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(with permission by Mark R. McDonald)

Pro Se

Pursuant to Civil L.R. 5-4, I, Ashley R. Rifkin, as the ECF user under whose credentials this document is filed, attests that concurrence in the filing of this document has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct. Executed at San Diego, California this 27th day of August, 2021.

/s/ Ashley R. Rifkin
Ashley R. Rifkin

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