UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEVEN CHECCHIA, on behalf of himself and all other similarly situated,

Plaintiff

CASE NO. 2:21-cv-3585

v.

BANK OF AMERICA, N.A.,

Defendant

PLAINTIFF'S AND CLASS COUNSEL'S RESPONSE TO INVALID NOTICE OF OPT-OUT AND OBJECTION OF VICTOR M. CROWN

Plaintiff and Class Counsel¹ hereby file their response to the invalid opt-out and objection filed by an individual who is *not* a Settlement Class member and is, therefore, not entitled to either opt-out of or object to the Settlement.

Attached as *Exhibit 1* is a document first purporting to opt-out of the Settlement and second inconsistently purporting to object to the Settlement. Fundamentally, assuming someone is actually a Settlement Class member, either that person may opt-out and not be bound by the Settlement, if approved, or remain in the Settlement Class and object, but he cannot do both.

Contemporaneous with the filing of this Response, the Supplemental Declaration of Cameron R. Azari, Esq. on Implemental and Adequacy of Notice Plan is being filed, in which Mr. Azari, on behalf of the Settlement Administrator, confirms in paragraph 17 that there is no record of a Victor M. Brown or the Estate of Lourdes Theodossis being a Settlement Class member in the Settlement Class list compiled using Defendant's account level transaction data.

¹ All capitalized terms used herein shall have those same meanings as those defined in Section I of the Settlement Agreement.

Case 2:21-cv-03585-RBS Document 23 Filed 07/14/23 Page 2 of 4

Review of the pages in *Exhibit 1* confirms the person submitting that document accessed the Settlement Website and printed both the Postcard Notice and the Long Form Notice. This is most apparent from the inclusion of a blank version of the Postcard Notice, a comparable copy of which the Court can review on the Settlement Website at http://nsfodfeechecksettlement.com/Content/Documents/Postcard%20Notice.pdf.

Following receipt of the document purporting to both opt-out from and object to the Settlement, Class Counsel, Jeff Ostrow, contacted Mr. Crown by telephone to inform Mr. Crown that he is not a member of the Settlement Class and to further clarify his intentions because of the conflicting statements in *Exhibit 1*. Attached as *Exhibit 2* is email correspondence Mr. Ostrow sent to Mr. Crown immediately after their telephone call to memorialize what they discussed—that Mr. Crown did not understand what it meant to object and that once explained to him it is not his intent to object to the Settlement. His opt-out was precautionary to protect claims against Defendant that have nothing to do with this Action. Mr. Ostrow wrote the following to Mr. Crown:

This confirms a telephone call you and I had a few minutes ago regarding the Opt-Out Notice and Notice of Intent to Object that you sent to the Settlement Administrator postmarked on June 24, 2023.

During the call, I advised you that the Settlement Administrator did a search and that neither you, Victor M. Crown, nor the Estate of Lourdes Theodossis, are members of the *Checchia v. Bank of America* settlement class. You informed me that you did not get a notice in the mail and only learned of the *Checchia v. Bank of America* settlement by searching the Internet, and that you saw there was a June 24, 2023, deadline to opt-out of or object to the settlement. You further advised that both you and the Estate of Lourdes Theodossis (your mother's estate) had accounts at Bank of America. You advised that you have a 7th Circuit Order dated June 12, 2015, which provides for \$90,000 in tax credits to the estate and that you did not want to give up any rights you have thereunder.

You thought by failing to timely opt-out of or object to the settlement, you could perhaps jeopardize your rights under the 7th Circuit Order, and that is why you sent in the letter on June 24, 2023. I advised you that you don't have to opt-out of the settlement because neither you nor the estate are included in it. Notwithstanding, I told you that we would make sure that the Court knows that you want to opt-out as a precaution to preserve your rights under the 7th Circuit Order. You also told me that you did not know what objecting was and only did it to further preserve your

rights under the 7th Circuit Order. You advised that you have no intention of holding up the settlement for other class members, because you don't actually have any issues with the settlement. To that end, you agreed to withdraw your objection.

Please reply to this email confirming that even though you and the estate are not in the settlement class, you, individually, and on behalf of the estate, still want to optout of the settlement and further that you, individually, and on behalf of the estate, agree to withdraw the objection to the settlement.

Exhibit 2.

Despite Mr. Ostrow's follow-up telephone calls with Mr. Crown, where he assured Mr. Ostrow he would send a reply email with a notice withdrawing his objection, Mr. Crown has not done so. Mr. Crown advised Mr. Ostrow that he has to access a computer at a local library to check and respond to his email. Should Class Counsel receive the written confirmation it will be presented to the Court.

Regardless, the Court should find that no objection to the Settlement has been presented because the fundamental condition to have standing to object to a class action settlement is that the objector is a settlement class member. Mr. Crown, individually or as a representative of the Estate of Lourdes Theodossis, is *not* a Settlement Class member in the Settlement. Therefore, the Court should ignore *Exhibit 1*.

Further, there is no basis to include Mr. Crown or the Estate of Lourdes Theodossis as an opt-out to the Settlement. Thus, the Final Approval Order should not list either as an opt-out.

Substantively, *Exhibit 1* does not actually present any objection to the terms of the Settlement, including Class Counsel's requested attorneys' fees and costs and the Service Award for the Class Representative. Thus, if the Court were to consider the document as an objection, it should be overruled.

Dated: July 14, 2023

Respectfully submitted,

<u>/s/ Jeff Ostrow</u> Jeff Ostrow (pro hac vice) Jonathan M. Streisfeld (pro hac vice) KOPELOWITZ OSTROW P.A. One West Las Olas Blvd., Suite 500 Fort Lauderdale, Florida 33301 954.525.4100 ostrow@kolawyers.com streisfeld@kolawyers.com

Jeffrey Kaliel (pro hac vice) KALIELGOLD PLLC 1100 15th Street N.W., 4th Floor Washington, D.C. 20005 202.350.4783 jkaliel@kalielpllc.com

Kenneth J. Grunfeld (PA 84121) GOLOMB SPIRT GRUNFELD, P.C. 1835 Market Street, Suite 2900 Philadelphia, PA 19104 215-985-9177 kgrunfeld@golomblegal.com

Class Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 14, 2023, the foregoing document was filed electronically on the CM/ECF system, which caused all CM/ECF participants to be served by electronic means. A copy of this document will be emailed to Victor Crown who is not registered with the CM/ECF system.

/s/ Jeff Ostrow Jeff Ostrow

EXHIBIT 1

Victor M. Crown PO Box 59011 Chicago, Illinois 60659-0011

June 24, 2023

Checchia v. Bank of America Settlement PO Box 2696 Portland, OR 97208- 2696

United States Courthouse Eastern District of Pennsylvania 601 Market Street Philadelphia PA 19106

Jeff Ostrow Jonathan Streisfeld Kopelowitz Ostrow PA 1 West Las Olas Blvd – Suite 500 Fort Lauderdale, FL 33301

Brian A. Kahn McGuirewoods LLP 201 North Tryon Street – Suite 3000 Charlotte NC 28202

RE: OPT OUT notice on BOA settlement; notice of intent [to object]

Dear Respondent [Clerk of the Court]

I am, as provided under legal notice in Checchia v. Bank of America NA Settlement herewith now exercising my legal rights and opting out of notice of pending class action and proposed settlement that was filed in federal district court for the Eastern District of Pennsylvania.

This applies to Bank of America NA account number ending in [5384] which affects Estate of Lourdes Theodossis [Victor M. Crown – ADM] and overdraft charges and fees assessed after January 1, 2017.

This applies to Bank of America NA account number ending in [4374] which affects Victor M. Crown and overdraft charges and fees assessed after January 1, 2017.

The submission of this letter [6-24-2023] then herewith now permits [allows] customer [Victor M. Crown] to object to settlement and is herewith asking letter be construed as a notice of intention to object.

The legal citation affecting this objection is **First National Bank of Jacksboro v. Lasater – 196 US 115 (1905) [judicial estoppel – bankruptcy trustee]** – This case affirms legal authority of a bankruptcy trustee to assert a right of action and that "trustees in bankruptcy are not bound to accept property of an onerous or unprofitable character and they have a reasonable amount of time to assert title as a judgment creditor in [the] civil cases".

This applies to correction order filed by 7th CirCA in Docket No. 15-1734 on 6-12-2015 and dismissals of the civil case filed against estate on 9-19-2017 and 4-30-18 in favor of representative [trustee]

Respectfully submittee Victor M. Crown Truste

PO Box 59011 Chicago, Illinois 60659-0011

6-24-2023 [regular mail]

BANK OF AMERICA. NA. (THE TANK") ESTATE OF LOURDES THEXPOSSIB BORA CORE CHECKING VICTOR M CROWN ADM, EXE OR PER REP 	15 8 / 1	Case 2:21-cv-03585-R	BS Document 23-1 Filed 07	14/23 Page 4 of 11	180217	~ `~
ESTATE OF LOURDES THEODOSSIG WICTOR M CROWN ADM. EXE OR PER REP <i>IREM</i> 21, 5.3.4.11 INPUT LAR POSED ONE OBJECTOR <i>IREM</i> 21, 5.3.4.11 INPUT <i>IREM</i> 410.7.2.9.8(1-1-202) Bank <i>I L Const</i> 5 <i>IREM</i> 21, 5.3.4.11 INPUT <i>IREM</i> 21, 5.5.3.4.11 INPUT <i>IREM</i> 21, 5.5.3.4.1 INPUT <i>IREM</i> 25, 10, 5.13.4.1 INPUT <i>IREM</i> 25, 10, 5.3.8413.5.7 <i>IREM</i> 25, 10, 3.12.65 <i>IREM</i> 2		-			080317	02
VICTOR M CROWN ADM. EXE OR PER REP	ESTATE	of Lourdes Theodossis	BOFA CORE CHECKING			
Basence Lad Billitemedelet Dependent Provide S. 11. T. T. 12. Star 53 Dependent Provide Star 53 Dependent Provide Star 53 Mittational Provide Balance Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints, Star 53 Dependent Constraints, Star 53 Dependent Constraints, Star 53 Dependent Constraints, Star 54 Dependent Constar 54	VICTOR	M CROWN ADM, EXE OR PER REP	6384	ho	nn 8546	
Basence Las Batternadeter Dependent of the Control	jrn	- 1	10 M4 10.7.2.9	8(1-1-2026) 200	t records	
Basence Lad Billitemedelet Dependent Provide S. 11. T. T. 12. Star 53 Dependent Provide Star 53 Dependent Provide Star 53 Mittational Provide Balance Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints (J. 12. Star 53 Dependent Constraints) Basence Lad Statement, Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints Basence Lad Statement, Dependent Constraints, With the work of the Dependent Constraints, Star 53 Dependent Constraints, Star 53 Dependent Constraints, Star 53 Dependent Constraints, Star 54 Dependent Constar 54	Last Pasa	n Date 08/02/2017	e Prymod 8/3/2017 Ata: A18/A	NB NB	ut of Amla	e
Basence Las Batternadeter Dependent of the Control			IRN4.10.76	effective 1.100	59-te Accum	
Windowskelledia Li ULMS.19.6.13.45 \$20.00 Parking Gradus Li Acct No \$38000 Austatio Satispon (5) Emportance (1) Emportance (1) Emportance (1) Acct No \$384000 Microsoft flows only-impeding downs are not included in the bounds Acct No \$384000 \$384000 Date Department Department Department Acct No \$384000 Od/23/2017 Minutely Magnitoriance Fee Fee Acct No \$3125.63 06/08/2017 RETURN OF POSTED CHECK / ITEM (RECEIVED ON 06-07) ELECTRONIC TRANSACTION Crodit \$50.00 \$125.63 06/08/2017 RETURN OF POSTED CHECK / ITEM (RECEIVED ON 06-07) ELECTRONIC TRANSACTION Crodit \$50.00 \$125.63 06/07/2017 NEF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION For \$325.00 \$175.63 06/07/2017 TREASURY DIRECT DES: TREAS DRCT ID: 38(607860MAAB1 INDN-Victor M. Crown, EXE CO Other Payment \$50.00 \$140.53 06/18/2017 April Articles 31D DES: MISC PAY ID RS171350001/841 INDN-Victor M. Crown, Admit CO Deposit \$4.09 \$78.53 06/18/2017 April Artecs 31D DES: MISC PAY ID RS171350001/841 IN	Profession of	noon roerroneby	-\$137 58		4710.00	<u></u> フ
Available Balances (5) #Count include possible flams and primately dome and not be burges Batance Last Statement, Duposite/Credits, Ville/FreeMin/Debits may not hold to Available Balance Date Description CO23/2017 Monthly Maintoniance Fee Turner of the Activity of 08-07 ELECTRONIC TRANSACTION Fee Statement POSTING DATE DR-07-17, POST OK/07/2017 TREASURY DIRECT DES: TREAS DRCT ID: 38(607860MAA81 INDN-Victor M. Crown, EXE CO Other Payment 450,00 - 5140,53 Datement Period as of 05/24/2017 Vib/23/2017 An TREAS 310 DES: MISC PAY ID R8171350001/841 INDN-Victor M. Crown, Admin CO Deposit 54.69 - 578.53 For adatascial information or service, pleaser boning line California Bayerse Canad at 1-800-432-1000		1 P 1 5. 19 6 13 4	50,00 Panding Grudas 1.		Children and	
Description S384-1367 Description Type OB23/2017 Manufay Mentionance Fee Description Fee OB23/2017 Manufay Mentionance Fee OB/07/2017 NSF RETURN OF POSTED CHECK / ITEM (RECEIVED ON 06-07) ELECTRONIC TRANSACTION Cradit 06/07/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Cradit 06/07/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Fac 5355.00 06/07/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Fac 5355.00 \$175.63 06/07/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Fac 5355.00 \$175.63 06/07/2017 TREASURY DIRECT DES:TREAS DRCT IDJ.386607860MAA81 INDN:Victor M. Crown, EXE CO Other Payment 550.00 \$140.53 Stateman Period as of 05/24/2017 U6/23/2017 Monthay Maintenance Fee Fee 512.00 \$90.53 05/19/2017 APA TREAS 31D DES: MISC PAY ID R81713500011/641 INDN:Victor M. Crown, Admith CO Daposit \$4.69 \$78.53 Fet extentinal informetition of service, pleaseri context in Clinit	Avudable B HGourita I Betauca I	alance (5) emphased items anti-alandar data the	14.5137 53 Chp	Accth2		
OB/23/2017 Maintiby Maintanance Fee Iype Input 1 Available Balance V6/08/2017 RETURN OF POSTED CHECK / ITEM (RECEINED ON 08-07) ELECTRONIC TRANSACTION Crodit \$50.00 \$125.60 V6/08/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Crodit \$50.00 \$125.60 V6/07/2017 NSF RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Fac \$35.00 \$175.63 V6/07/2017 TREASURY DIRECT DESTREAS DRCT ID: 386607860MAA81 INDN: Vietor M. Crown, EXE CO Other Payment \$50.00 \$140.53 V6/07/2017 TREASURY DIRECT DESTREAS DRCT ID: 386607860MAA81 INDN: Vietor M. Crown, EXE CO Other Payment \$50.00 \$140.53 V6/07/2017 TREASURY DIRECT DES: TREAS DRCT ID: 386607860MAA81 INDN: Vietor M. Crown, EXE CO Other Payment \$50.00 \$140.53 Statement Period as of 05/24/2017 V6/23/2017 Fee		ast statement. Duposits/Crodito, Wilhdrawald/Debits may n	ot Idial to Available Balunce		2384-1307	9
08/08/2017 RETURN OF POBTED CHECK / ITEM (RECEIVED ON 06-07) BLECTRONIC TRANSACTION Crodiit \$50.00 -\$125.63 06/07/2017 NSF_RETURNED ITEM FEE FOR ACTIVITY OF 08-07 ELECTRONIC TRANSACTION Fax -\$335.00 \$175.63 06/07/2017 TREASURY DIRECT DES:TREAS DRCT ID:1.386R07860MAAB1 INDN:Victor M. Crown, EXE CO Other Paymenti \$50.00 \$140.53 06/07/2017 TREASURY DIRECT DES:TREAS DRCT ID:1.386R07860MAAB1 INDN:Victor M. Crown, EXE CO Other Paymenti \$50.00 \$140.53 06/07/2017 TREASURY DIRECT DES: TREAS DRCT ID:1.386R07860MAAB1 INDN:Victor M. Crown, EXE CO Other Paymenti \$50.00 \$140.53 06/07/2017 Monthey Maintagance Fee Feer	00/23/201	Doscription Manulay Manuananoa Fee			Kinpunt Available	Balanco \$137.53
POSITING DATE UE-07-17, POST Pad \$35.00 \$175 63 Obj07/2017 TREASURY DIRECT DES;TREAS DRCT ID:1.386607860MAA81 INDN:Victor M. Crown, EXE CO Other Payment \$50.00 \$140.53 Statement Period as of 05/24/2017 Statement Period as of 05/24/2017 Free \$12.00 \$90.53 OS/18/2017 APA TREAS 310 DES: MISC PAY ID R\$171350001/841 INDN:Victor M. Crown, Admin CO Deposit \$4.69 \$78.53 For additional information or vervice, pleased context in Cristorner Bervice Center at \$-800-132-1000 For additional information or vervice, pleased context in Cristorner Bervice Center at \$-800-132-1000 \$4.69 \$78.53	06/08/2011	RETURN OF POSTED CHECK / ITEM (RECEIVED ON (08-07) ELECTRONIC TRANSACTION	Crotlit		
ID:0051736158 PPO ID:0051736158 PPO Statement Period as of 05/24/2017 U6/23/2017 Monthly Maintenance Fee Fee Fee Fee Fee Fee Fee Fee	n6/07/2017	NSF RETURNED ITEM FRE FOR ACTIVITY OF 08-07 POSTING DATE 08-07-17. POST	ELECTRONIC TRANSACTION	Faa	\$35.00	175 63
U6/23/2017 Monitriy Maintonance Fee Fee Fee Fee Fee 512.00 490.53 05/16/2017 APA TREAS 310 DES: MISC PAY ID R\$171350001/841 INDN:Victor M. Grown, Admin CO Duposit \$4.69 -\$78.53	06/07/2017		0MAAB1 INDN: Victor M. Crown, EXE	ČO Other Payment	-\$50.00 -\$	140.53
05/16/2017 APA TREAS 310 DES: MISC PAY ID R\$171350001/841 INDNEVICTOR M. Grown, Admin CO Duposit \$4.69 -\$78.53 ID 910 1036 751 PPD \$4.69 -\$78.53 For additional information or adjusted, plasmi contact the Cristometr Service Center at 7-800-132-1000		Statement Period as of 05/24/2017				
05/16/2017 APA TREAS 310 DES: MISC PAY ID R\$171350001/841 INDN:Victor M. Grown, Admin CO Duposil \$4.69 \$78.53 ID 910 1036 T51 PPD \$4.69 \$78.53 For additional information or addition, pleased contact in Cristometr Service Center at 7-800-132-1000	06/23/2017	Monthly Mairiténance Fee		Fea	-512 00	\$40.53
For adultional information or solvice, plouse contact the Cristomer Service Center at 1-800-132-1008	05/16/2017	APA TREAS 310 DES: MISC PAY ID R\$171350001/8 ID 9101036151 PPD	41 INDNEVICTor M. Grown, Admin CO	- Duposii		
For adultional information or service, pleased contact the Cristeriner Service Center at 7-800-132-1008		•				
* Weinier included in Provious Statements)	For unitino - * Denti	ial Information or vervice, pleasar contact the Cristerner Service Cer A included in Providuz Statement(s)	nter at 8-800-132-1000		····· 5384 5	G @ 19
00-14-903/6M 11-2010 NIL Page 1		M 11-2010			U	1.20

....

· . . .

•

.

ł

	•	Case	e 2:21	-cv <mark>-03</mark>	585-R	BS I	Docun	nent 2	3-1 I	-iled 0)7/14/	23 Pa	age 5	of 11	Š
Available Balance 573 22	548 ZZ 975	22,218-	\$1.78	311 78	82.105	841.7B	R/ 1015	\$126 78	87 9925		3807.96	5818.88	5 824 90	8363 3A	6384 Page 2 82.
Arrount Av -\$35.00	-539.00	\$i 6:00	:S10.00	- 1 20'00'	-\$10,00	480 DV	-\$25.00	-\$140,00	.\$541,20		.00 245	-85.00	512 00	\$69.00	
Foo	fað	Utheor Paymont	Other Payroint	Olther Payment	Debi	Detri	Cultur Paynanat	Centrit	Dabit		Fot	Other Puyrnent	Deposit	Dryposti	
Description Extenderi Overumeen Balance Change	OVERDRAFT ITEM FEE FOR ACTIVITY OF 05-04 ELECTRONIC TRANSACTION	agot desitreas drot (d).1.386607860MAABO INDN: Victor M. Crown. Exe Co PPD	RECT DES TREAS DRUT ION 386607860MAABZ INON WAAR M. COMM. EXE CO	TREASURY DIRECT DES.TREAS DRCT (D.X650419779MAANC INDN: VICKN & CRIMIN IND AD CO ID:9001738158 PPD	IL TLR cash withvirishal from CNR 5384 Banking Cr LINCOLN AND PETERSON #0000386 IL Confirmational 3974(130,480	L TLR cash withdrawai from CMK \$384 Burding Cir LINCOLN AND PETERSON #0000366 IL Confirmation# 0147611283	REGT DESITREAS DRCT ID X23059402344A/GB INDN.Luuides Throdinesa Ext CO	IL. T.R. cash withdinwoitmen CHK S384 Banking Cr. UNCOLN AND PETERSON #0800348 1, Confirmational 1630476257	tt. TLR cosh withdrawni (rem CHK \$304 Brasing Cir LINCOLN AND PETERSON \$0000366 ft. Cordinnations: 0107023318	Statement Period as of 04/22/2017	nioncar Face	RECT DESITREAS DRCT ID X550419779MAANB (NDN, Victor M. Crown IND AD CO	10 DES MISC PÁV ID-RS171 (000006117 INDN VICIAR M. Crown, Admin CO 1 PPD	APA TREAS 340 DES: MISC PAY 10, RS1711000006116 INDN VICIN'M Crown Admin CO 10:91010303151 PMD	For additional trutarition of secular please contains the Customini Service Conton at 1-800-432-1000." • • Itanga) included in Previaus Statementian NiL
Description Extended Over	OVERDRAF1 (POSTING DAT	TREASURY DIRECT ID:0061730168 PPD	TREASURY DIRECT ID:0061738158 PPD	TREASURY DIRECT ID:9001738150 PPD	IL TLR cash wi Confirmationa	ll. TLR cash withdrawai fron Confirmation& 0147611283	TREAGURY OIREGT IO-8051736168 PPD	(L. T.R. cash w Confirmation	it. TLA cosh w Cordimenton	Statement Pe	Munbiy Maintonanca Faa	TREASURY DIRECT (D:0061736158 PPD	APA TREAS 310 D 10,9101030161 PPD	APA TREAS 340 (D:9101030151 PP	ઇતંક્ષેભાચો પ્રાઉત્તાવ્યં મેળ છે. અંકાપંડ્યાં, પ્રાંકેશ્વરુક વ્યત ધ્રિક્ષાથુંથે, included in Preniaus Staticmently, NiL
Date 05/11/2017	05/04/2017	05/04/2017	03902/2017	05/02/2017	d5/02/2017	1102)10/50	04/20/2017	04/27/2017	04/24/2017		04/21/2017	2102112002	04/20/2017	11020201	For additions) • • Itami(s) • NIL

Case 2:21-cv-03585-RBS Document 23-1 Filed 07/14/23 Page 6 of 11

1100.00	Description	_		
04/20/2017	Counter Credit	Doposil	Ambunt Av \$750.00	aiinble Halance \$754.98
0-1/14/2017	IL TLR cash withdrawal from CHK 5384 Banking Ca LINCOLN AND PETERSON #0000366 IL Confirmation# 01 19465374	Doott	-\$12.00	S4.98
04/08/2017	TREASURY DIRECT DES TREAS DRCT ID.L.380607860MAABY INDN.Violor M. Crown, EXE. CO.	Othigt Payment	-\$3.00	\$18 98
4/05/2017	IL TLR cosh withdrawal from CHK 5384 Banking Gir LINCOLN AND PETERSON #0000366 IL Confirmation# 4240837068	Dobh	\$100 00	\$19.98
4/05/2017	APA TREAS 310 DES MISC PAY ID:RS1708500002049 INDN:Victor M. Crown, Arlinin CO	Dapasli	\$75.69	\$119.96
4/05/2017	APA TREAS 310 DES MISC PAY ID RS 1709500002048 INDN: Victor M. Crown, Altmin CO	Deposit	\$75.0B	\$44, <u>2</u> 9
1	Statement Period as of 03/25/2017			
¥24/2017 I	Monthly Maintenance For	Faa	-\$12.00	-\$31.40
109/2017 I	APA TREAS 310 DES: MISC PAY ID:RS1706600001739 INDN:Victor M. Cruwn, Admin CO D:9101038151 PPD	Deposit	\$100.00	-\$19,40
406/2017 F	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 03-03) ELECTRONIC TRANSACTION	Gredil,	\$30.00	-\$119.40
V03/2017 N F	ISF-RETURNED ITEM FEE FOR ACTIVITY OF 03-03 ELECTRONIC TRANSACTION	- Fee	-\$35.00	-\$149,40
103/2017 T II	REASURY DIRECT DES TREAS DRCT ID;L386807880MAARV INDN:Victor M. Grown, EXE CO	Other Playment	-\$30.00	\$114,40
02/2017 A	PA TREAS 310 DES: MISC PAY ID:RS:1706100006309 INDN:Crown, Victor Max CO	Deposit	\$75.06	-\$84.40
S	lalement Period as of 02/22/2017			
21/2017 M	Ionthly Maintonanco Fibo			
		Foo	-\$12.00	-\$159.40

•

For additional Internation or annuce, please contest the Customer Service Center or 1-800-132-1000 ;

* * Ilemi(s) included in Printious Statement(s)

NIL

---- 5384

.

Steven Checchia v. Bank of America, N.A.

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

IF YOU HAD A CONSUMER CHECKING AND/OR SAVINGS ACCOUNT WITH BANK OF AMERICA, N.A. ("BANA"), AND PAID CERTAIN OVERDRAFT FEES OR NON-SUFFICIENT FUNDS FEES BETWEEN MAY 19, 2017, AND FEBRUARY 16, 2023, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

The Court for the Eastern District of Pennsylvania has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY C	SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION						
DO NOTHING.	If you were assessed, paid, and were not refunded the types of fees that are being challenged in this case, then you will receive a payment from the Settlement Fund so long as you do not opt-out of the Settlement (described in the next box).						
OPT-OUT and EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS.	You can choose to opt-out of the Settlement which means you are excluding yourself from the Settlement. This means you choose not to participate in the Settlement. You will keep your legal right to bring your individual claims against BANA, but you will not receive a payment from this Settlement. The deadline to opt-out of the Settlement is JUNE 24, 2023 . If you opt-out, but still want to recover against BANA, then you will have to file a separate lawsuit or claim.						
OBJECT TO THE SETTLEMENT.	If you do not opt-out, but instead wish to object to the Settlement or any matters described in the Class Notice, you may do so by filing with the Court a notice of your intention to object. The deadline to object to the Settlement is JUNE 24, 2023.						

These rights and options—and the deadlines to exercise them—along with the material terms of the Settlement are explained in this Class Notice.

AH2501 v.06

Checchia v. Bank of America, N.A. Settlement P.O. Box 2696 Portland, OR 97208-2696

Legal Notice

If you had a consumer checking and/or savings account with Bank of America, N.A., and paid certain Overdraft Fees or NSF Fees between May 19, 2017, and February 16, 2023, you may be entitled to payment from a class action settlement.

1 (888) 771-2047 NSFODFeeCheckSettlement.com Class Counsel and BANA's Counsel, not later than 15 days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (iv) the attorney's hourly rate.

If you fail to comply with the provisions herein, you will waive and forfeit any and all rights to appear and/or object separately and will be bound by the terms of the Settlement Agreement and the orders and judgments of the Court.

To be timely, written notice of an objection must be filed or received by the Settlement Administrator and/or Court by **JUNE 24, 2023**, and served at the same time to Class Counsel and Defendant's counsel to the following addresses:

SETTLEMENT ADMINISTRATOR	CLERK OF COURT	CLASS COUNSEL	BANA'S COUNSEL
Checchia v. Bank of America Settlement P.O. Box 2696 Portland, OR 97208-2696	United States Courthouse Eastern District of Pennsylvania 601 Market Street Philadelphia, PA 19106	Jeff Ostrow Jonathan Streisfeld KOPELOWITZ OSTROW P.A. 1 West Las Olas Blvd. Suite 500 Fort Lauderdale, FL 33301 Jeffrey Kaliel KALIELGOLD PLLC 1100 15th Street N.W. 4th Floor Washington, D.C. 20005 Kenneth J. Grunfeld GOLOMB SPIRT GRUNFELD 1835 Market Street Suite 2900 Philadelphia, PA 19103	Brian A. Kahn MCGUIREWOODS LLP 201 North Tryon Street Suite 3000 Charlotte, NC 28202

20. What is the difference between objecting and opting-out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a Settlement Class Member Payment if the Settlement is approved, but you will release claims you might have against BANA. Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a Settlement Class Member Payment or release claims you might have against BANA for the claims alleged in this lawsuit.

21. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other Settlement Class Member, then there may be no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT'S FAIRNESS HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on JULY 24, 2023. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for Attorneys' Fees and Costs and how much the Class Representative should get as a Service Award for acting as the Class Representative.

A settlement has been reached with Bank of America, N.A. ("BANA") in a class action lawsuit about Non-Sufficient Funds Fees ("NSF Fees") and Overdraft Fees ("OD Fees") related to certain ACH and check transactions that were charged on accounts from May 19, 2017, through February 16, 2023.

Who is included? BANA records indicate that you are a "Settlement Class member" in this Settlement because you fit the following Settlement Class definition: All Accountholders of BANA consumer checking and/or savings accounts who, during the Class Period, paid and were not refunded a NSF Fec and/or OD Fec in connection with (a) an ACH entry on their Account that was submitted by the merchant or the merchant's bank with a "REDEP CHECK" indicator; or (b) a physical check (not an ACH transaction) that was re-presented for payment after having initially been returned for non-sufficient funds and charged a NSF Fec within the preceding twenty-eight calendar days.

What does the Settlement provide? BANA will create a \$8,000,000 Settlement Fund. After deducting Attorneys' Fees and Costs, a Service Award to the Class Representative, and the Settlement Administration Costs, the Net Settlement Fund will be divided pro rata among all Settlement Class Members.

What are my options? If you do nothing and the Settlement is approved by the Court and becomes final, you will automatically receive a Settlement Class Member Payment and your rights will be affected. If you do not want to be legally bound by the Settlement and receive a Settlement Class Member Payment, you must opt-out of the Settlement by June 24, 2023. Unless you opt-out, you will not be able to sue or continue to sue BANA for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the Settlement (and do not opt-out), you may object to it by June 24, 2023.

The Court's Final Fairness Hearing. The Court will hold a Final Fairness Hearing on July 24, 2023. At this hearing, the Court will decide whether to approve: (1) the Settlement; (2) Class Counsel's request for Attorneys' Fees of up to 33% of the Settlement Fund and reimbursement of Costs; and (3) a Service Award of \$5,000 for the Class Representative. You or your lawyer may appear at the hearing at your own expense, but you do not have to.

More information, including a detailed Long Form Notice and the full Settlement Agreement, are available at NSFODFeeCheckSettlement.com or by calling 1 (888) 771-2047.

AH1982 v.03

P.D. BONSQOIL CAROL STREAM IL 601 24 JUN 2023 PM 11 L Chicage, 14. 60659-6071 Checchinu. Banh JAmerica Settlenet P.O.BOX ZL96 Portland, 0 R 97208-2696 OUT NOTLEE-NOTLEE OF LATENT (TO OBJECT)

EXHIBIT 2

From: Sent: To: Subject: Jeff Ostrow Thursday, July 6, 2023 7:04 PM

Checchia v. Bank of America - Opt-Out Notice and Notice of Intent to Object

Mr. Crown:

This confirms a telephone call you and I had a few minutes ago regarding the Opt-Out Notice and Notice of Intent to Object that you sent to the Settlement Administrator postmarked on June 24, 2023.

During the call, I advised you that the Settlement Administrator did a search and that neither you, Victor M. Crown, nor the Estate of Lourdes Theodossis, are members of the *Checchia v. Bank of America* settlement class. You informed me that you did not get a notice in the mail and only learned of the *Checchia v. Bank of America* settlement by searching the Internet, and that you saw there was a June 24, 2023, deadline to opt-out of or object to the settlement. You further advised that both you and the Estate of Lorudes Theodossis (your mother's estate) had accounts at Bank of America. You advised that you have a 7th Circuit Order dated June 12, 2015, which provides for \$90,000 in tax credits to the estate and that you did not want to give up any rights you have thereunder.

You thought by failing to timely opt-out of or object to the settlement, you could perhaps jeopardize your rights under the 7th Circuit Order, and that is why you sent in the letter on June 24, 2023. I advised you that you don't have to opt-out of the settlement because neither you nor the estate are included in it. Notwithstanding, I told you that we would make sure that the Court knows that you want to opt-out as a precaution to preserve your rights under the 7th Circuit Order. You also told me that you did not know what objecting was and only did it to further preserve your rights under the 7th Circuit Order. You also told me that you sent the 7th Circuit Order. You advised that you have no intention of holding up the settlement for other class members, because you don't actually have any issues with the settlement. To that end, you agreed to withdraw your objection.

Please reply to this email confirming that even though you and the estate are not in the settlement class, you, individually, and on behalf of the estate, still want to opt-out of the settlement and further that you, individually, and on behalf of the estate, agree to withdraw the objection to the settlement.

Sincerely,

Jeff Ostrow

Class Counsel



Jeff Ostrow Managing Partner KOPELOWITZ OSTROW FERGUSON WEISELBERG GILBERT One West Las Olas Blvd., Suite 500 Fort Lauderdale, Florida 33301 Main: 954-525-4100 • Direct: 954-332-4200 Fax: 954-525-4300 • Web: www.kolawyers.com

This email is intended solely for the individual to whom it is addressed and may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If the reader is not the intended recipient or the agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this is strictly prohibited. If you recivied this communication in error, please immediately notify us by telephone and return the original message to us at the listed email address. Thank you.

In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise stated, any discussion of a federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding federal tax penalties.