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7
 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 BANK OF AMERICA, N.A.,

Case No.: 2:16-CV-01692-APG-GWF

11 Plaintiff,

12 vs.

13 OPERTURE, INC., a corporation; BRIDGER
 INVESTMENTS LLC, a Nevada limited liability
 14 company; GEORGE PETER LEE; ALESSI &
 KOENIG, LLC, a Nevada limited liability
 15 company; INDIGO HOMEOWNERS'
 ASSOCIATION, a Nevada non-profit
 16 corporation; and DOES I through X, and ROE
 CORPORATIONS I through X, inclusive;

STIPULATION AND ORDER TO:
(1) SET ASIDE CLERK'S DEFAULT;
AND
(2) VACATE DEFAULT JUDGMENT
AGAINST DEFENDANT
GEORGE PETER LEE

17
 18 Defendants.
 19

20
 21 **STIPULATION**

22 Defendant George Peter Lee ("**Defendant**") by and through the law firm of Schwartz
 23 Flansburg PLLC, and Plaintiff, Bank of America, N.A. ("**Plaintiff**"), by and through the law firm
 24 of Wright, Finlay & Zak, LLP, hereby stipulate and agree as follows:

25 1. On November 16, 2017, the Clerk entered default as to Defendants Bridger
 26 Investment LLC and George Peter Lee (the "**Clerk's Default**"). [ECF No. 36];

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1 2. On January 26, 2018, Plaintiff filed its Renewed Application for Default
2 Judgment against George Peter Lee and Bridger Investment LLC (the “**Renewed Application**”).
3 [ECF No. 43];

4 3. On February 7, 2018, the Court entered its Order Granting the Renewed
5 Application. [ECF No. 45];

6 4. On February 8, 2018, the Clerk entered its Default Judgment in favor of Plaintiff
7 and against Defendants Bridger Investment LLC and George Peter Lee (the “**Default**
8 **Judgment**”). [ECF No. 46];

9 5. On March 9, 2018, counsel for Defendant made their initial appearance in this
10 matter. [ECF No. 48];

11 6. Rule 55(c) of the Federal Rules of Civil Procedure allows the Court to set aside an
12 entry of default for good cause, and to set aside a final default judgment pursuant to Rule 60(b);

13 7. Rule 60(b)(5) of the Federal Rules of Civil Procedure allows the Court to relieve a
14 party from a final judgment if the judgment “has been satisfied, released, or discharged.”
15 Similarly, Rule 60(b)(6) allows the Court to relieve a party from such a judgment for “any other
16 reason that justifies relief;”

17 8. Rule 60(b)’s provisions for setting aside default judgments are “remedial,” and
18 “must be liberally applied.” United States v. Aguilar, 782 F.3d 1101, 1106 (9th Cir. 2015) citing
19 Falk v. Allen, 739 F.2d 461, 463 (9th Cir. 1984) (per curiam). The Ninth Circuit often reiterates
20 the longstanding policy that a default judgment “is a drastic step appropriate only in extreme
21 circumstances,” and that “a case should, whenever possible, be decided on the merits.” Id.

22 9. Plaintiff and Defendant agree and stipulate that there is good cause to set aside the
23 Clerk’s Default as to Defendant;

24 10. Plaintiff and Defendant agree and stipulate to vacate the Default Judgment against
25 Defendant;

26 11. The sole remaining appearing party, Defendant Indigo Homeowner’s Association,
27 does not object to this agreement and stipulation, and consents to the same pursuant to LR 7-
28 1(c);

1 12. Defendant shall file and serve his response to Plaintiff's Complaint within twenty-
2 one (21) days of the date of the order granting this stipulation.

3 IT IS SO STIPULATED.

4 Dated this 11th day of May, 2018

 Dated this 11th day of May, 2018

5 SCHWARTZ FLANSBURG PLLC

 WRIGHT FINLAY & ZAK

6
7 /s/ Andrew P. Dunning
8 Frank M. Flansburg III, Esq.
9 Nevada Bar No. 6974
10 Andrew P. Dunning, Esq.
11 Nevada Bar No. 13864
12 6623 Las Vegas Blvd. South, Suite 300
13 Las Vegas, Nevada 89119
14 Attorneys for Defendant
15 George Peter Lee

/s/ Aaron D. Lancaster
 Aaron D. Lancaster, Esq.
 Nevada Bar No. 10115
 7785 W. Sahara Ave., Suite 200
 Las Vegas, Nevada 89117
 Attorneys for Plaintiff
 Bank of America, N.A.

16 Dated this 11th day of May, 2018

17 LEACH JOHNSON SONG & GRUCHOW

18 /s/ Chase Pittsenbarger
19 Sean L. Anderson, Esq.
20 Nevada Bar No. 7259
21 Chase Pittsenbarger, Esq.
22 Nevada Bar No. 13740
23 8945 W. Russell Road, Ste. 330
24 Las Vegas, NV 891148
25 Attorneys for Defendant
26 Indigo Homeowners' Association

1 **ORDER**

2 Based upon the foregoing stipulation, and good cause appearing, the Court hereby orders
3 as follows:

- 4 1. The above stipulation of the parties is approved;
- 5 2. The November 16, 2017, Clerk’s Default [ECF No. 36] is set aside as to
6 Defendant George Peter Lee;
- 7 3. The February 8, 2018, Default Judgment in favor of Plaintiff [ECF No. 46] is
8 vacated as to Defendant George Peter Lee;
- 9 4. Defendant George Peter Lee shall file and serve his response to Plaintiff’s
10 Complaint within twenty-one (21) days of the date of this order.

11 IT IS SO ORDERED:

12 

13 _____
14 UNITED STATES DISTRICT JUDGE
15 Dated: May 14, 2018.

16 Submitted By:
17 SCHWARTZ FLANSBURG PLLC
18

19 /s/ Andrew P. Dunning
20 Frank M. Flansburg III, Esq.
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