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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JAN - 6 2010

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

IN RE OPNEXT, INC.
SECURITIES LITIGATION

Case No. 08-CV-920-JAP-LHG

ORDER AND FINAL JUDGMENT

On the 6th day of January 2010, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated September 8, 2009 (the "Stipulation") are fair, reasonable, and adequate for the settlement of all claims asserted by the Class against the Defendants in the Complaint now pending in this Court under the above caption, including the release of the Defendants and the other Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Complaint on the merits with prejudice and without costs as against all Defendants; (3) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the members of the Class; and (4) whether and in what amount to award Plaintiffs' Counsel fees and reimbursement of expenses. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was mailed to all persons or entities reasonably identifiable, who purchased or otherwise acquired the common stock of defendant Opnext during the time period between February 14, 2007 and February 13, 2008, inclusive (the "Class Period"), except those persons or entities excluded from the definition of the Class; and it appearing that a summary notice of the hearing substantially in the form approved by the Court was published in *Investors Business Daily* and was transmitted over *Business Wire* within ten days of the mailing of the Notice pursuant to the specifications of the Court; and the Class

Action Fairness Act of 2005, 28 U.S.C. § 1715, having been complied with; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiff, all Class Members, and the Defendants.
2. The Court finds, for purposes of this Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Class Representative are typical of the claims of the Class they seek to represent; (d) the Class Representative and Plaintiff's Co-Lead Counsel have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.
3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for purposes of this Settlement only, this Court hereby finally certifies this action as a class action on behalf of all persons who purchased or otherwise acquired the common stock of defendant Opnext, pursuant or traceable to Opnext's February 14, 2007 IPO during the time period between February 14, 2007 and February 13, 2008, inclusive. Excluded from the Class are Defendants, their respective officers and directors, and, at all relevant times, the members of their immediate families, their

legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a majority interest. Also excluded from the Class are the persons and/or entities who requested exclusion from the Class as listed on Exhibit 1 annexed hereto.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for purposes of this Settlement only, this Court hereby finally certifies Lead Plaintiff New Jersey Building Laborers Pension Fund as Class Representative.

5. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 27 of the Securities Act of 1933, 15 U.S.C. § 77z-1(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto. Plaintiff's Co-Lead Counsel has filed with the Court proof of mailing of the Notice and Proof of Claim and proof of publication of the Publication Notice. Counsel for the Opnext Defendants has filed with the Court proof of compliance with the Class Action Fairness Act of 2005.

6. The Settlement is approved as fair, reasonable, and adequate, and the Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

7. The Complaint, which the Court finds was filed in accordance with Rule 11 of the Federal Rules of Civil Procedure, is hereby dismissed with prejudice and without costs as against all the Defendants.

8. Lead Plaintiff and members of the Class, on behalf of themselves, their heirs, executors, administrators, predecessors, successors and assigns, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liabilities whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class or individual in nature, including both known claims and Unknown Claims, (i) that have been asserted in this Action by the members of the Class or any of them against any and all of the Defendants, their past or present subsidiaries, parents, affiliates, successors and predecessors, or other individual or entity in which any Defendant has a majority interest or which is related to or affiliated with any of the Defendants, and each of their respective officers, directors, agents, employees, attorneys, advisors, investment advisors, auditors (including, but not limited to, Ernst & Young LLP, which Lead Plaintiff voluntarily dismissed from this Action without prejudice), accountants, insurers, successors, and assigns (the "Released Parties"), or (ii) that could have been asserted in any forum by the members of the Class or any of them against any of the Released Parties that arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the July 30, 2008 Complaint and relate to the purchase, sale or other acquisition or disposition or holding of shares of Opnext

common stock in or traceable to Opnext's February 14, 2007 IPO, or (iii) that relate to the administration of the Net Settlement Fund (the "Settled Claims") against any of the Released Parties. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

9. The Defendants and their heirs, executors, administrators, predecessors, successors and assigns of any of them and the other Released Parties, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Defendants or any of the Released Parties against the Lead Plaintiff and/or any of the Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (the "Settled Defendants' Claims"). The Settled Defendants' Claims are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

10. Neither this Order and Final Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against any of the Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by any of the plaintiffs or the validity

of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of any of the Defendants;

(b) offered or received against any of the Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any of the Defendants;

(c) offered or received against any of the Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Defendants, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that any of the Defendants may refer to it to effectuate the liability protection granted them hereunder;

(d) construed against any of the Defendants as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Lead Plaintiff or any of the other Class Members that any of their claims are without merit, or that any defenses asserted by any of the Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Gross Settlement Fund.

11. The Plan of Allocation is approved as fair and reasonable, and Plaintiffs' Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions.

12. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

13. Plaintiffs' Counsel are hereby awarded $33\frac{1}{3}\%$ of the Gross Settlement Fund, which sum the Court finds to be fair and reasonable, and \$38,152.74 in reimbursement of expenses, which amount shall be paid to Plaintiff's Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiff's Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

14. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Settlement Fund, the Court has considered and found that:

(a) the Settlement has created a fund of \$2 million in cash that is already on deposit, plus interest thereon, and that numerous Class Members who submit acceptable Proofs of Claim will benefit from the Settlement created by Plaintiffs' Counsel;

(b) Over 16,000 copies of the Notice were disseminated to putative Class Members indicating that Plaintiffs' Counsel were moving for attorneys' fees in the amount of up to $33\frac{1}{3}\%$ of the Gross Settlement Fund and for reimbursement of expenses in an amount of

approximately \$60,000 and no objections were filed against the terms of the proposed Settlement or the ceiling on the fees and expenses requested by Plaintiffs' Counsel contained in the Notice;

(c) The action involves complex factual and legal issues and was actively prosecuted and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(d) Had Plaintiffs' Counsel not achieved the Settlement there would remain a significant risk that the Class may have recovered less or nothing from the Defendants;

(e) Plaintiffs' Counsel have devoted over 1,400 hours, with a lodestar value of \$757,525 to achieve the Settlement; and

(f) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

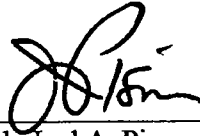
15. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the members of the Class.

16. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation or the Effective Date does not occur, this Order and Final Judgment shall

be rendered null and void to the extent provided by and in accordance with the Stipulation, and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

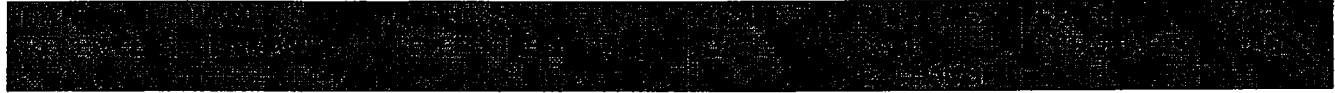
Dated: Jan. 6, 2010



Honorable Joel A. Pisano
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

OPNEXT, INC. TIMELY EXCLUSION REQUESTS



11/19/2009	P Susan Steele	38 Miller Avenue Unit 501 Mill Valley, CA 94941 415-388-7832	None given	None given	None given	None given
11/30/2009	Paul W Zerbst	211 Van Buren Avenue Teaneck, NJ 07666 201-836-0614	2/20/2007	Purchase	18.25	1,000
12/7/2009	Husam Nazer	211 N Rexford Drive Beverly Hills, CA 90210 310-550-1798	2/14/07 2/15/07	Purchase Sale	15.00 17.09	70 70