

Exhibit D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN RE: SAKS INC. SHAREHOLDER LITIGATION

Index No. 652724/2013

IAS Part 53

Hon. Andrew Borrok, J.S.C.

**~~PROPOSED~~ FINAL ORDER AND JUDGMENT
CERTIFYING CLASS AND APPROVING CLASS ACTION SETTLEMENT**

WHEREAS a consolidated shareholder class action is pending in this Court entitled *In re: Saks Inc. Shareholder Litigation*, Index No. 652724/2013 (the “Action”);

WHEREAS plaintiffs Thomas H. Jennings, Sharon Golding, Jack Oliver, Wanda Oliver, Samuel T. Cohen, Robert Oliver, and Joshua Teitelbaum (collectively, “Plaintiffs”), on behalf of themselves and the Class (defined below), defendants Fabiola Arredondo, Robert B. Carter, Michael S. Gross, Donald E. Hess, Marguerite W. Kondracke, Jerry W. Levin, Nora McAniff, Stephen I. Sadove, and Jack L. Stahl (collectively, the “Individual Defendants”), defendant Goldman Sachs & Co. LLC (“Goldman Sachs,” and together with the Individual Defendants, “Defendants”), and Hudson’s Bay Company (“HBC”) and Saks, Inc. (“Saks,” and together with HBC, the “Companies,” and together with Plaintiffs and Defendants, the “Settling Parties”) have entered into a Stipulation and Agreement of Settlement, Compromise, and Release dated November 13, 2020 (the “Stipulation”), that provides for a complete dismissal with prejudice of all claims asserted in the Action on the terms and conditions set forth in the Stipulation, subject to approval of this Court (the “Settlement”);

WHEREAS by Order dated December 10, 2020 (the “Preliminary Approval Order”), this Court: (a) preliminarily approved the proposed Settlement as fair, reasonable, and adequate to the Class; (b) ordered that notice of the proposed Settlement be provided to potential

Class Members; (c) provided potential Class Members with the opportunity to exclude themselves from the proposed Settlement or file objections thereto; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, the Court conducted a hearing on April 26 and May 11, 2021 (the "Settlement Hearing") to consider, among other things: (a) whether the Class should be certified; (b) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Class, and should therefore be approved; (c) whether a Judgment should be entered dismissing all claims in the Action with prejudice; (d) whether the application by Plaintiffs' Counsel for an award of attorneys' fees and reimbursement of litigation expenses should be approved; and (e) whether the application by Plaintiffs' Counsel for an incentive award to Plaintiffs for prosecuting the Action (including the Related Actions prior to consolidation into the Actions) and the First Appeal and defending against the Individual Defendants' Counterclaim should be approved; and

WHEREAS it appearing that due notice of the Settlement Hearing has been given in accordance with the Preliminary Approval Order; the Settling Parties having appeared by their respective attorneys of record; the Court having heard and considered evidence in support of the proposed Settlement; the attorneys for the respective parties having been heard; an opportunity to be heard having been given to all other persons or entities requesting to be heard in accordance with the Preliminary Approval Order; the Court having determined that notice to members of the Class was adequate and sufficient; and the entire matter of the proposed Settlement having been heard and considered by the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED,
this 11th day of May, ~~2020~~ 2021, as follows:

1. **Definitions:** Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.
2. **Jurisdiction:** The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over each of the Settling Parties and Class Members.
3. **Incorporation of Settlement Documents:** This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court ^{dated} ~~on~~ Nov. 13, 2020; and (b) the Long-Form Notice and Publication Notice, which were filed with the Court as Exhibits B and C to the Stipulation on the same date.
4. **Class Certification:** The Court finds and concludes that the requirements of CPLR 901(a) have been met:
 - (a) the Class is so numerous that joinder of all members is impracticable;
 - (b) there are questions of law or fact common to the Class that predominate over any questions affecting only individual members;
 - (c) the claims of Plaintiffs, as representatives of the Class, are typical of the claims of the Class;
 - (d) Plaintiffs and Plaintiffs' Counsel have fairly and adequately represented and protected the interests of all of the Class Members; and
 - (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.
5. The Court hereby certifies, for purposes of the Settlement only, a class consisting of all former holders of Saks common stock between July 29, 2013 through November 4, 2013, together with their successors and assigns (the "Class"). Excluded from the Class are

Defendants, the Companies, any person, firm, trust, corporation, or other entity related to or that is an Affiliate of any of the Defendants, Defendants' Counsel, and the Companies' Counsel; provided, however, that any Investment Vehicle (as defined in the Stipulation) shall not be excluded from the Class. Also excluded from the Class are any putative Class Members who have excluded themselves by filing a request for exclusion in accordance with the requirements set forth in the Long-Form Notice and the Preliminary Approval Order, which request has been accepted by the Court; these persons or entities are listed on Exhibit A attached hereto. For purposes of the Settlement only, Plaintiffs are certified as representatives of the Class, and Plaintiffs' Counsel are certified as counsel for the Class.

6. **Notice:** The Court finds that the mailing and internet distribution of the Long-Form Notice and Hard-Copy Claim Form, and publication of the Publication Notice:

- (a) were implemented in accordance with the Preliminary Approval Order;
- (b) were the best notice reasonably practicable under the circumstances;
- (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the releases provided therein), of Plaintiffs' Counsel's application for an award of attorneys' fees and litigation expenses and for an incentive award to Plaintiffs, of their right to object to the Settlement, of their right to exclude themselves from the Class, and their right to appear at the Settlement Hearing;
- (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and

(e) fully satisfied the requirements of CPLR 904 and 908, New York law, the United States Constitution, and any other applicable law.

7. **Final Settlement Approval and Dismissal of Claims:** Pursuant to, and in accordance with, CPLR 908, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Class. The Settling Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

8. The Action, all of the claims asserted against Defendants in the Action by Plaintiffs and the other Class Members, and all of the claims asserted against Plaintiffs in the Action by the Individual Defendants, are hereby dismissed with prejudice. The Settling Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation or this Order.

9. **Binding Effect:** The terms of the Stipulation and of this Judgment shall be forever binding on the Settling Parties and all Class Members (regardless of whether or not any individual Class Member was entitled to receive or in fact receives a distribution from the Net Settlement Fund), as well as their respective successors and assigns.

10. **Releases:** The releases set forth in Paragraphs 4 and 6 of the Stipulation, together with the definitions contained in Paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. Such releases are effective as of the Effective Date.

Accordingly, this Court orders that:

- (a) Without further action by anyone, all Plaintiffs and other Class Members, on behalf of themselves and their respective heirs, executors,

administrators, predecessors, successors, affiliates, agents, attorneys, representatives, and assigns, shall be deemed to have, and by operation of law and this Judgment shall have, fully, finally, and forever released, settled, and discharged the Released Defendant Parties from and with respect to every one of the Released Plaintiffs' Claims, and shall be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of the Released Plaintiffs' Claims against any of the Released Defendant Parties.

(b) Without further action by anyone, each of the Defendants and the Companies, on behalf of themselves and their respective heirs, executors, administrators, predecessors, successors, affiliates, agents, attorneys, representatives, and assigns, shall be deemed to have, and by operation of law and this Judgment shall have, fully, finally, and forever released, settled, and discharged the Released Plaintiff Parties from and with respect to every one of the Released Defendants' Claims, and shall be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

11. With respect to the releases set forth in Paragraph 10 above, the Settling Parties and Class Members shall be deemed to have waived any and all provisions, rights, and benefits conferred by any law of the United States, any law of any state, any principle of common law, or any other provision of law or equity that governs or limits a person's release of Unknown Claims

to the fullest extent permitted by law, including any law that is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

12. Notwithstanding Paragraphs 10-11 above, nothing in the Stipulation or this Judgment shall waive, settle, discharge, compromise, or otherwise relinquish any (a) Claims to enforce or effectuate the Settlement, the Stipulation, or this Judgment; or (b) Claims that any of the Defendants or the Companies may have against any of the Insurers.

13. The releases set forth in Paragraphs 10 above shall not apply to any person or entity that has submitted a request for exclusion from the Class that has been accepted by the Court; these persons and/or entities are listed on Exhibit A hereto. All persons and/or entities listed on Exhibit A hereto are excluded from the Class, are not bound by this Judgment, and may not make any claim with respect to, or receive any benefit from, the Settlement.

14. **No Admissions:** Neither this Judgment, the Stipulation (whether or not consummated), including the exhibits thereto, the negotiations leading to the execution of the Stipulation, nor any proceedings taken pursuant to or in connection with the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

- (a) shall be offered against any of the Settling Parties, Released Defendant Parties, or Released Plaintiff Parties as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission with respect to the truth of any fact alleged in the Action or the validity of any claim that was or could have been asserted or the deficiency of any

defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind or in any way referred to for any other reason as against the Settling Parties, Released Defendant Parties, or Released Plaintiff Parties, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; §

- (b) shall be offered against any of the Settling Parties, Released Plaintiff Parties, or Released Defendant Parties as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission that any of their claims are without merit, that there were meritorious defenses against such claims, or that damages recoverable exceeded the amount obtained in the Settlement or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Settling Parties, Released Defendant Parties, or Released Plaintiff Parties, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or
- (c) shall be construed against any of the Settling Parties, Released Plaintiff Parties, or Released Defendant Parties as an admission, concession, or presumption that the consideration to be given under the Stipulation represents the amount which could be or would have been recovered after trial;

provided, however, that the Settling Parties, Released Plaintiff Parties, and Released Defendant Parties and their respective counsel may refer to the Stipulation to effectuate the protections from liability granted under the Stipulation or otherwise to enforce the terms of the Stipulation or the Settlement.

15. **Award of Attorneys' Fees and Litigation Expenses:** Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of $33\frac{1}{3}\%$ of the Settlement Payment plus reimbursement of litigation expenses in the amount of \$ 176,535.51 (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable. Plaintiffs' Counsel shall allocate the attorneys' fees and litigation expenses awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the claims asserted in the Action against Defendants. The Court also hereby awards \$ 5,000 to each of (i) Thomas H. Jennings; (ii) Sharon Golding; (iii) Jack and Wanda Oliver, together; (iv) Samuel T. Cohen; (v) Robert Oliver; and (vi) Joshua Teitelbaum as a reasonable incentive award for prosecuting the Action (including the Related Actions prior to consolidation into the Action) and the First Appeal and defending against the Counterclaim (also to be paid from the Settlement Fund).

16. No proceedings or court order with respect to the award of fees and expenses to Plaintiffs' Counsel or incentive award to Plaintiffs shall in any way disturb or affect this Judgment (including precluding this Judgment from being Final or otherwise being entitled to preclusive effect), and any such proceedings or court order shall be considered separate from this Judgment.

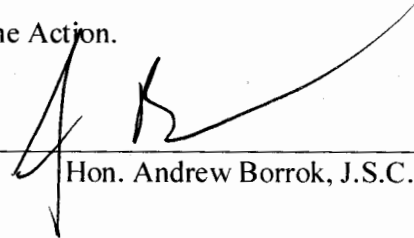
17. **Retention of Jurisdiction:** Without affecting the finality of the Judgment in any way, the Court retains exclusive jurisdiction over the Settling Parties and all Class Members for purposes of the administration, interpretation, and enforcement of the Settlement and the Stipulation.

18. **Modification of Stipulation:** Without further approval from the Court, the Settling Parties are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any provisions of the Settlement or the Stipulation.

19. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation or the Effective Date otherwise fails to occur, this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Plaintiffs, the other Class Members, Defendants, and the Companies, and Plaintiffs and Defendants shall revert to their respective positions in the Action immediately before June 10, 2020, as provided in the Stipulation.

20. **Entry of Final Judgment:** There is no just reason to delay the entry of this Judgment as a final judgment in the Action. Accordingly, the Clerk of Court is expressly directed to immediately enter this final judgment in the Action.

Enter:
May 11, 2021



Hon. Andrew Borrok, J.S.C.