COURT OF CHANCERY
OF THE
STATE OF DELAWARE

JOHN W. NOBLE
VICE CHANCELLOR

417 SOUTH STATE STREET
DOVER, DELAWARE 19901
TELEPHONE: (302) 739-4397
FACSIMILE: (302) 739-6179

July 28, 2009

Kenneth J. Nachbar, Esquire
Morris, Nichols, Arsht & Tunnell LLP
1201 N. Market Street
Wilmington, DE 19801

Edward P. Welch, Esquire
Skadden, Arps, Slate,
Meagher & Flom LLP
One Rodney Square
Wilmington, DE 19801

Andre G. Bouchard, Esquire
Bouchard, Margules & Friedlander, P.A.
222 Delaware Avenue, Suite 1400
Wilmington, DE 19801

Samuel A. Nolen, Esquire
Richards, Layton & Finger, P.A.
One Rodney Square
Wilmington, DE 19801

Nathan A. Cook, Esquire
Abrams & Laster LLP
20 Montchanin Road, Suite 200
Wilmington, DE 19807

Denise S. Kraft, Esquire
Edwards Angell Palmer & Dodge LLP
919 Market Street, Suite 1500
Wilmington, DE 19801

John G. Harris, Esquire
Riley Riper Hollin & Colagreco
One Commerce Center, 3rd Floor
1201 North Orange Street
Wilmington, DE 19801

Re: CME Group, Inc. v. Chicago Board Options Exchange, Inc.
C.A. No. 2369-VCN
Date Submitted: July 15, 2009

Dear Counsel:

I write to address three applications.

1. William L. Allen Trust, dated September 5, 1995.

The William L. Allen Trust, dated September 5, 1995 (the "Trust"), submitted a Group A Settlement Claim form that was rejected because of the Trust's failure to comply with the requirement that its shares be deposited in book entry form at Computershare. The Trust held an ERP and, thus, was entitled to participate in the Group B Class Settlement. It did not, however, submit any Class B Settlement claim form. It now seeks to participate in the Group B Settlement. The Trust analogizes its predicament to that of Geneva Trading LLC which was recently allowed to participate in the Group B Settlement despite having only filed a Group A Settlement claim form (for the interest at issue). Geneva, however, had a substantial argument that it had met the requirements to participate in the Group A Settlement. The Trust, unfortunately, did not (and, apparently because of what the Trust has labeled as bad advice from a broker, could not) attempt or approach compliance with the Computershare requirement.

Nevertheless, I am persuaded that the Trust should be allowed to participate in the Group B Settlement. The documents it submitted in support of its timely Group

A Settlement claim form—evidencing the necessary ERP—demonstrated an entitlement to Group B participation. Denying the Trust the opportunity to participate in the Group B Settlement process would result in a windfall to the Group A participants.

2. Jeffrey Holland.

Mr. Holland, a qualifying Group B Settlement Class Member, seeks the Court's approval to participate in the Group A Settlement. He now does so by way of a motion for clarification. Because of some uncertainty on the part of Mr. Holland, he did not reassemble the "Three Parts." He was aware of the need to acquire (or reacquire) certain interests, but he chose not to do so. He attempts to blame all of this on the decision of Class Counsel not to provide specific and individual legal advice to him in advance of his submission of a claim as to whether or not he had previously held certain interest by "delegation" as that concept is addressed in the Settlement. The "delegation" standard may have be complicated, but it was sufficient to inform Mr. Holland (who is represented by counsel) and to enable him to determine whether, within the terms of the Settlement, he could properly participate as a Group A Settlement Class Member through "delegation." Apparently, he was unwilling to run the risk or expense of reassembling the Three Parts without first obtaining certainty

as to whether he would qualify. That may (or may not) have been prudent, but it was his own choice not to reassemble the various components. As such, he failed to meet the requirements of the Settlement, including, specifically, the requirement for book entry of shares of CME Group Common Stock with Computershare. That failure is fatal to his efforts to obtain Group A status. Thus, Mr. Holland's motion for clarification is denied.

3. A. Alan Zatopa.

Mr. Zatopa persists in his resistance to the Computershare requirement. He timely raised his objection to this prerequisite for participation as a Group A Settlement Class Member. But for the Computershare requirement, he would have qualified for a second Group A Settlement Class unit.[1] The Court has sustained the Computershare requirement.[2] Mr. Zatopa has moved for reargument.[3] Mr. Zatopa

[1] It appears that some of those who initially objected to the Computershare requirement eventually complied with it.

[2] *See CME Group, Inc. v. Chicago Bd. Options Exch., Inc.*, 2009 WL 1547510, at *6-7 (Del. Ch. June 3, 2009).

[3] The Court has addressed objections primarily in two opinions. The first dealt with the structural objections. *Id.* The second dealt with the individual objections. *CME Group, Inc. v. Chicago Bd. Options Exch., Inc.*, 2009 WL 1856693 (Del. Ch. June 25, 2009). Mr. Zatopa's arguments largely reprise the structural arguments addressed by the Court in the first opinion. The Court, in consideration of the individual arguments, did not directly address Mr. Zatopa's circumstances. Mr. Zatopa premises his motion for reargument on his individual circumstances. To the extent that Mr. Zatopa seeks reargument of the Court's consideration of the Computershare requirement generally, his motion is denied because it does nothing more than reprise earlier arguments and he has not

challenged—and this may be something of an over-simplification—the Computershare requirement as unnecessary. He contended that there were other ways by which Class Counsel could have accurately confirmed compliance with the various requirements for participating in the Settlement. Those arguments, as noted, were rejected, but he now refines his argument. He contends that when his personal circumstances are considered, equity should relieve him of the Computershare burden. Mr. Zatopa asserts that he owned the necessary CME Group common stock in certificate form throughout the applicable timeframe. He argues that he made the necessary records available to Class Counsel and made himself available for questioning. Instead of offering a reason why equity should come to his aid, Mr. Zatopa, instead, simply seeks special treatment. The Computershare requirement was reasonable. That other approaches might have been available does not refute that conclusion. To allow Mr. Zatopa to participate in the Group A Settlement without compliance with the Computershare requirement would unfairly interfere with a

---

demonstrated that the Court either misapplied the law or misunderstood the facts. *See, e.g.*, *Serv. Corp. of Westover Hills v. Guzzetta*, 2008 WL 5459249 (Del. Ch. Dec. 22, 2008). To the extent that the Court did not consider his individual circumstances, reargument is appropriate for matters fairly presented to the Court but which it did not address. *See, e.g.*, *Stone v. Stant*, 2008 WL 2938543, at *1 (Del. Ch. July 18, 2008). Whether Mr. Zatopa raises genuinely individual arguments or simply takes his general arguments and recasts them as applying to himself is an interesting, but ultimately unnecessary, topic for debate. The Court will treat his motion under the rubric of having failed to consider his individual claims previously.

reasonable and approved condition. By extension, acceptance of Mr. Zatopa's argument would suggest that no one who held CME Group Common Stock in certificate form should have bothered to comply with the Computershare requirement either. Accordingly, the Court concludes that because Mr. Zatopa failed to comply with the Computershare requirement, he may not participate as the holder of a second Group A Class Settlement Unit.

Very truly yours,

/s/ John W. Noble

JWN/cap
cc: Richard I. G. Jones, Jr., Esquire
John H. Williams, Jr., Esquire
Melanie K. Sharp, Esquire
Vernon R. Proctor, Esquire
Michael A. Weidinger, Esquire
Paul A. Fioravanti, Jr., Esquire
Henry E. Gallagher, Jr., Esquire
Joseph A. Rosenthal, Esquire
Patricia R. Uhlenbrock, Esquire
Carolyn S. Hake, Esquire
David S. Eagle, Esquire
Daniel B. Rath, Esquire
Kevin J. Mangan, Esquire
Lewis H. Lazarus, Esquire
Martin S. Lessner, Esquire
David A. Jenkins, Esquire
Arthur L. Dent, Esquire
Register in Chancery-K