IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE THE STUDENT LOAN CORPORATION LITIGATION : Consolidated : Civil Action No. 5832-VCL

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Chancery Courtroom No. 12C
New Castle County Courthouse
500 North King Street
Wilmington, Delaware
Thursday, October 27, 2011
2:02 p.m.

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BEFORE: HON. J. TRAVIS LASTER, Vice Chancellor.

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SETTLEMENT HEARING and RULINGS OF THE COURT

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APPEARANCES:

CARMELLA P. KEENER, ESQ.
Rosenthal, Monhait & Goddess, P.A.
-and-
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-and-
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-and-
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WILLIAM D. JOHNSTON, ESQ.
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SEAN J. BELLEW, ESQ.
Ballard Spahr LLP
for Ethan D. Wohl, Esq.

THE COURT: Welcome, everyone.

ALL COUNSEL: Good afternoon, Your Honor.

THE COURT: Ms. Keener, how are you today?

MS. KEENER: Very well. Thank you, Your Honor.

THE COURT: We've got a full house today.

MS. KEENER: We do. I'd like to make some introductions.

THE COURT: Sure.

MS. KEENER: Colead counsel are here, Jennifer Sarnelli from Gardy & Notis and James Notis of Gardy & Notis.

THE COURT: Welcome.

MS. KEENER: And Ira Schochet, Labaton Sucharow --

THE COURT: Good to see you.

MS. KEENER: -- and Jonathan Plasse.

MR. PLASSE: Good afternoon, Your Honor.

THE COURT: Mr. Plasse, how are you?

MS. KEENER: With that, Your Honor,

Mr. Notis will make the presentation today on behalf of plaintiffs.

THE COURT: Sure.

MR. NOTIS: Good afternoon, Your Honor. This is the time the Court has set for a final hearing to consider final certification of the class, final settlement approval, and an award of attorneys' fees and expenses to plaintiffs' counsel.

The affidavit of mailing of the notice was filed on October 11th, 2011. There were approximately 1,500 mailed notices, and the notice and the full settlement stipulation with its exhibits were also posted on Student Loan's website. No one has shown up here today to be heard other than counsel for the parties.

Plaintiffs filed this case to challenge the entire fairness of a cash-out merger of the public shareholders of The Student Loan Corporation for $30 in cash per share and are today asking the Court to approve a settlement that provides for Citigroup to pay an extra $2.50 per share to those former shareholders. Citi owned 80 percent of Student Loan prior to the merger, with 20 percent owned by the public. There were about 4 million shares held by the

public. They were traded on the New York Stock Exchange. So 4 million shares at 2.50 per share, the settlement is valued at about $10 million. The 2.50 share recovery is an excellent result for the class.

This was a tough case for plaintiffs on valuation. We had litigated the case up until the preliminary injunction motion. We had received over 400,000 documents -- pages of documents. There were five depositions of defendants and their banker, plus one of the clients was deposed. So six depositions in total before the preliminary injunction. Both sides submitted extensive expert reports. There was an extensive record and argument -- and the arguments were all laid out in the briefs.

Just prior to the preliminary injunction hearing, the defendants had mooted the disclosure claims. And so the hearing really focused on the substance of the claims and the entire fairness considerations for the merger as to both price and process. I call it a merger; but as Your Honor knows, this was really a three-part transaction with two asset sales and -- and a merger with Discover Financial Services. One of the asset sales was to Sallie Mae, and the other was to Citi through Citibank

North America, CBNA.

Your Honor denied the preliminary injunction and set the case for a damages trial. And I think Your Honor's comments at the hearing kind of gave a little to each side to consider in terms of the claims and defenses in the case. My own take-away was that plaintiffs had the arguments on their side on the process claims and that defendants may have had some good arguments on -- on the price claim. Some of Your Honor's comments alluded to that.

There was talk of fishy behavior, as the Court put it, in connection with the renegotiation of the omnibus. This was the omnibus credit facility for which Student Loan financed its operations and the possibility that Citi -- Citi had engaged in tunneling where, in renegotiating from the old omnibus that expired at year-end 2009 to the new omnibus, which was a one-year omnibus starting in January 2010, that Citi may have tried to extract value on the debt side where it had a hundred percent versus on the equity side where it had just 80 percent.

On price, Your Honor at the hearing referred to -- this is a quote -- "powerful arguments," particularly on the valuation front for

defendants. It didn't exactly warm my heart as to what would happen at trial.

On the price side, we had the problem that the $30 cash per share was far above any of Moelis' valuation analyses. The discount dividend analysis from Moelis yielded prices between $7.34 per share and $18.51 per share. Now, our expert came in and opined that Moelis' discount dividend analysis was flawed, and he set out to make some corrections to try to show that the price here was really north of $30 per share. He made adjustments to the discount rate. He made adjustments to the perpetuity growth rate. And those are areas I think where different bankers can -- can disagree.

This Court, in cases like Golden Telecom and other appraisal cases, have kind of given some guidance on which discount rates to use, which betas to use, which sources of small company risk premiums, and so on and so forth. But even with the corrections to the discount rate and corrections to the perpetuity growth rate, you still didn't get into a range above $30 per share. The only way to get above the $30 per share was when our expert made adjustments to the projections, the five-year

projections, with Year 2015 projection impacting the terminal values. Our expert adjusted management projections for that 2015 year based on an assumption that loan losses in the current climate, where Student Loan was estimating 50 percent loan loss reserves to revenues, would normalize back to pre-2007 levels.

What was seen -- our expert looked at the 2004 to 2006 time frame. Those are all under 5 percent loan loss reserve levels. In 2008 and '09, it had climbed to 30 percent. By 2010, it was at 50 percent. And Student Loan management had projected that that would continue into 2015. It was actually a little higher, closer to 60 percent for 2011; but even for '12, '13, '14, and '15, they still had loan losses at 50 percent.

So our expert corrected -- or opined that on a corrected discounted dividend analysis the -- using terminal values and -- or using the final year, Year 5, projections that included a 50 percent loan loss reserve was unrealistic to grow the terminal value; that, you know, to infinity the company was to continue -- was going to continue to face 50 percent of -- of loan losses. So he adjusted back to a normalized rate of pre-2007 and from that extracted a

value range above the $30 per share.

I think at trial this would have been a damages trial. We would have had our expert testify. Defense would have had their expert testify. And we certainly faced some risk that the Court might not accept adjusting the Year 5 projections the way our expert did.

THE COURT: I thought I had marked this, but isn't there something in here where Moelis used fair book value or something like that?

MR. NOTIS: Moelis also used a -- a fair book value --

THE COURT: Have you ever heard anybody else use the term "fair book value"?

MR. NOTIS: I think we argued at the preliminary injunction hearing that that was not an accurate measurement to use for a company of this sort.

THE COURT: Yeah. But that was -- that was the one that you potentially got above 30 on, too; right? I mean, you -- if you -- if you didn't make the Moelis correction, you got good valuation numbers on that.

MR. NOTIS: The -- the valuation would

have been higher under -- using the discount dividend model; but on the -- on the book value, it would also achieve higher valuations, that's correct.

But, you know, again, it --

THE COURT: It just struck me, you know, if we had it today, we'd call it the book value in jobs metric, you know. Go ahead.

MR. NOTIS: I think that -- that's fair to say.

The -- I think in the end, we certainly faced some risk on price. This was a company that no one wanted to buy. It was shopped. No one wanted to buy it. Sallie Mae bought -- kind of cherry-picked the assets it wanted. Discover picked the assets that it wanted, and whatever was left Citi bought. And as Your Honor heard at the preliminary injunction hearing, it was just a fact we had to deal with, was that on a dollar basis, Citi was paying a higher --

THE COURT: But how much more than -- like, when you lump all this stuff together, how much more than 8 percent do you think you could have come in at credibly at trial?

MR. NOTIS: I think that it's

difficult to say. The most aggressive numbers that our expert came up with was that discount dividend analysis, and that's why I kind of led with that.

Making all these adjustments that he did, he came up with a range where I think the low was about $37 and the high was 59. I think that's about right. I may have the numbers off a little. The problem was that he only got to that number -- I mean, he made the adjustments to discount rate and perpetuity growth rate, but the $30 was still within the range. The only way that he got that higher was to take the loan loss reserves from 50 percent, which they were projecting in 2015, and knocking it down to under 5 percent, which was from '04 to '06.

Now, you can argue as to which -- you know, what's going to be more realistic for five years out. Management seemed to take this position of it's -- it's the no-recovery case, you know, the endless recession and forever the company's going to be facing 50 percent losses.

If you take 5 percent or under 5 percent, you get to 37 to 59. But for every bit that you chip off of that, if -- if the Court eventually were to come out that 50 percent is too pessimistic

and it's not supportable, it's not credible for five years out and knocked it down to 25 percent, kind of, you know, in the middle where we were, you still wouldn't get -- you would still find $30 within that value range or that range of outputs from the discount dividend model, even using our expert's preference for the discount rate and the perpetuity growth rate.

So there was certainly -- you know, this was going to come down to the experts.

THE COURT: It wouldn't mean they'd automatically win, would it, just because they came within the range?

MR. NOTIS: No, obviously not. In an entire fairness case, you've got to come up, you know, not just with -- you're going to come up with what price is entirely fair. But in the end, I think that achieving an 8 percent bump here was -- was a really excellent result for the class. And let me, kind of, go into why.

Well, first of all, you just -- you don't see that many cases achieving 8 percent more than what a special committee achieves. If it were easy, you'd see more of them, and you just don't. You see cases where you achieve an extra dime a share or

something on stocks worth $40 a share.

The other point here was that I think on the price negotiations, the special committee actually did -- or the banker did a fairly good job.

The -- you know, I asked Mr. Binnie from Moelis at his deposition: "So you're negotiating against Citi, and Citi had originally come in at $24 per share. And what arguments did you use to get them" -- you know, "to get them up?" The special committee never put a number. Citi didn't come in at 24 and the special committee -- they didn't say "No; it's got to be 36." They just kind of came and bid them up.

And I asked Mr. Binnie: "What" -- you know, "What arguments did you use?"

And he basically said, "I had nothing. I had no ammunition because I couldn't point to them that 'Oh, under this model you get higher prices'" or "'that model.'" He said, "All I had was the premium, because you could always ask for a higher premium."

And the special committee bid up Citi from 24 to 27 to 29. And when they were at 29, they finally extracted "It's got to be in the 30s," or it may have been phrased as "A number in the 30s would be

required," something like that. And that seemed to have at least gotten Citi that -- that last dollar.

But, you know, in the end, looking at it from a premium perspective, it was a 41.8 percent premium to the market. And that's -- you know, that, I think, shows -- I mean, we -- we had some good claims on process; but in the end result, it shows that there was real negotiation here and a real effort by the special committee to get the price up.

THE COURT: Uh-huh.

MR. NOTIS: The extra 8 percent -- the extra 2.50 per share brings the premium from 41.8 percent to 53.7 percent, the difference between 30 and $32. This was based on a preannouncement price, the day-before price of $21.15.

So I think that that shows, you know, that it was a great result here. It's an 8 percent increase over a special committee. And while we had process claims, we didn't really have any good challenges to the independence of the individual members of the committee. We had some allegations that one of them, Mr. Bailey, was essentially a lifelong Citi employee. He testified at his deposition he came from the John Reed side of

Citigroup. And after the merger with Travelers -- I forget what his exact language was. May have been something to the effect that "They screwed me." But he was -- he was kind of kicked out and didn't seem to have an allegiance to Citi.

We served interrogatories to find the amount of Citi stock that any of the individuals had, and it was all, you know, minimal. So given that, we had some good -- we had some process claims that may or may not have had traction in the end. We would have focused on the process and, you know, hammered away at what we had.

The price claim would have been based, really, on our expert against defendants' expert. And in the end, extracting an extra $2.50 per share, or 8 percent above the committee, I think is a fabulous result here. It -- the ammunition that we had, I think, was limited. We could have wound up after trial with a decision in which the Court may have been critical of the process, that there were shortcomings, that there was problems with the bankers' allegiances; but that in the end, the price was entirely fair and left plaintiffs with a very hollow victory.

So I would ask that the settlement is

certainly fair and reasonable. I think it's a great result and it should be approved.

The one last thing I'll mention on the settlement front is that we did conduct some confirmatory discovery. Your Honor noted at the hearing there seemed to be a kind of a hole in the record as to the renegotiation of the -- of the omnibus to the amended omnibus. So we went back and asked for documents going back into the 2009 time period and early 2010 with the renegotiation. We took the depositions of the Citi Holdings negotiator, the treasurer from Citi Holdings who was responsible for disposing of the -- the Student Loan and other Citi assets held for divestiture. And he was the negotiator for the Citi side. We deposed the former CEO of Student Loan who was the negotiator on the Student Loan side.

And just before settling we needed to close that hole and figure out exactly what we were giving up. If there was some actual misconduct there, we would have loved to hear about it, but it just wasn't there. We lay out in our papers what that discovery showed.

Unless Your Honor has any other

questions on the settlement, we're also seeking class certification, obviously. It's a typical class definition beginning with the announcement -- the date the merger was announced to the date the merger was closed.

I'll move on to the application of plaintiffs' counsel for a fee award.

THE COURT: That's fine.

MR. NOTIS: The -- plaintiffs' counsel here are seeking an award of $3.5 million. That amount is the product of an arm's length negotiation between the parties. The settlement is structured so that -- defendants have agreed to pay that amount. It's not an opposed fee application. Actually, first time before Your Honor on something, an unopposed fee application. It wasn't lost on me last night when I started to think about it.

(Laughter)

MR. NOTIS: The settlement -- we structured the settlement. Defendants agreed to it so that the fee would be paid on top of the $10 million. So the class is getting 2.50 per share without any deduction for attorneys' fees.

Obviously the Sugarland analysis is

known to this Court. I'll just focus on the benefits achieved.

The fee here is based on two separate benefits that were achieved from the class. The first is the $2.50 cash per-share recovery. Based on the Emerson, the Atlas case and RehabCare we have clear guidance from Your Honor on the range of fees that is based on a cash recovery. We -- we can see that this case falls into the 15 to 20 percent midrange fee award for cases that settle before trial but after some meaningful litigation, multiple depositions, substantive motion practice. Following the Atlas case, you base the percentage award on the gross because it's being paid on top of the recovery to the class.

So applying Atlas to the $10 million recovery here, if it's a 20 percent award, that's $2.5 million for the cash recovery. Our brief actually gets this wrong on the math, I just point out to Your Honor, and it says that 2.5 million is 25 percent. But that's inaccurate.

THE COURT: I noticed that. But that's okay.

MR. NOTIS: It's actually 20 -- that

would be 20 percent recovery at 2.5.

If it's a 25 percent award, it's 3.3 million for the cash recovery portion. I think that 25 percent is readily supportable here. And let me tell you why.

First, the case was heavily litigated through the preliminary injunction proceedings. It was 400 -- actually 435,000, I think, pages of documents; interrogatories; five depositions, six if you include the class representative. There was expert work, full briefing, and a preliminary injunction hearing. Contrast that with Atlas, which was recent, which settled, I guess, after the opening brief of plaintiffs.

And the other point besides the amount of litigation, this is really a fabulous result, an 8 percent bump to a special committee that would have been, in terms of its membership, tough to attack the -- the independence of and a record where there were some -- was evidence of arm's length bargaining between the committee representatives and Citi. Again, just an unusually good result.

So on the cash portion of the recovery, it's 2.5 million at 20 percent or

3.3 million at 25 percent, depending upon how you look at it.

The second component of the fee award is the disclosures that defendants issued to moot our disclosure claims ahead of the preliminary injunction hearing. The disclosures we achieved here are contained in an 11-page proxy supplement that Citi filed on November 26th of 2010, which is the same day that defendants filed their opposition briefs to the preliminary injunction motion.

Now, at the preliminary injunction hearing Your Honor noted that plaintiffs definitely got more than one meaningful disclosure and noted that we can make a fee application based on the disclosure benefit that had been achieved. Ultimately we did not make a separate fee application because of the settlement.

THE COURT: Right.

MR. NOTIS: So I think conservatively, the disclosure benefit would warrant a fee of at least a million dollars, probably much more. Let me just quickly go through why that's so.

As we know from the Court's opinions, you take a look at what you got and what it took to --

to get it. In terms of what we got, by my count, there were 15 separate disclosure points in the 11-page proxy. Some were more substantive than others. To put it in the bucket approach that the Court has noted, you can broadly take it as two different buckets. You can take a bucket on price and you can take a bucket on kind of process-related disclosures.

In the price bucket you can put in there projections. There were the projections from the offering memorandum, the confidential offering, memorandum from the spring of 2010. These are more of a selling document-type projections. It assumed that the FFELP program would expire on July 1st of 2011, which, as it turned out just because of when these projections were made, that a couple weeks later the legislation was enacted that eliminated FFELP as of July 1st, 2010. So they were just wrong on that. But those were the -- I think you'd have to call them the, you know, selling document projections. So those projections were -- were disclosed as a result of plaintiffs' efforts.

The second on the price side is you have the August 2010 projections. These were the

post-FFELP elimination projections, the five-year projections that -- that Moelis eventually used in the discount dividend analysis and that our expert used and made adjustments for in our expert's work.

The third thing you have, you have a reconciliation explaining the difference between the two projections, which I think defendants actually did a good job on. Again, the difference is in the elimination of FFELP. Difference is in certain assumptions on replacement for the -- for the new omnibus.

So I think there's a good argument that could be made that those are actually, you could say, two separate A list disclosures, a set of projections, the August projections, plus the -- the confidential offering memorandum projections. There's also other disclosures relating to Moelis' valuation work. But in the end, that's a heavy bucket on price. I could see a case where defendants had disclosed in the -- in the proxy statement just one set of projections and not the other. And there was litigation over it, and there was disclosure of the second set that people would come in and argue -- that's -- you know, projections, as the Court's noted,

are an A list disclosure -- and seek a typical A list disclosure fee based on one set of projections. Here, we got two. So, again, a heavy bucket on the price side.

On the process side, I think it's another very full bucket of A list disclosures. We got disclosure of Moelis' fee. The definitive proxy had this generic disclosure that Moelis would be paid a fee for its services, a significant portion of which is contingent upon consummation of the transaction. We got disclosure of exactly what Moelis' fee was and what portion of it was, in fact, contingent. We also got disclosure of the Gleacher's fee, the second banker hired by the committee. And we also got disclosure -- I think this was critical -- of Moelis' other work for Citi.

You -- probably a month or so after -- or less than a month after Your Honor had the preliminary injunction hearing, you heard the Art Technology case where you issued an injunction based on not disclosing other work that the banker had done for the buyer. And I think that's exactly the disclosure that we achieved earlier. It was a particularly good disclosure here because unlike past

work that the bankers for the seller -- for the buyer and the disclosures that you see, here, Moelis, at the exact same time that it was being -- that it was engaged by the special committee in negotiating against Citi, was actually on retainer by Citi to try to sell one of the -- the assets placed within Citi Holdings.

So, again, disclosure of both bankers' fees, disclosure of the past work and the compensation, Moelis' compensation, about what it was getting paid on that retainer by Citi are A list disclosures that would warrant an A list disclosure fee.

We have other disclosures about Proskauer Rose's work for Citi. There was disclosure about Bailey's prior work for Citi as well and the length of his employment, the extent of his employment. We got -- they didn't disclose the compensation for the special committee members. We got disclosure of the special committee compensation. So, again, that's a heavy basket of disclosures. I think any one of them you could look at as an A list disclosure that would warrant an A list fee, but we have multiple disclosures here.

In terms of what it took to achieve the disclosures, all those disclosures were not made until defendants filed their opposition to the preliminary injunction motion. Defendants knew about those claims for a long time. The preliminary proxy was filed on October 7th of 2010. We then filed an amended complaint with -- with our disclosure claims, laid them all out. No projections disclosure. No fee disclosures. No conflicts disclosures. No special committee fee disclosures. That was all set forth in our amended complaint.

Defendants elect to go ahead and file the definitive proxy on November 1st of 2010 without any effort to moot our claims or address the claims in any way. That doesn't get done, that mooting of the disclosure claims doesn't get done, until all the document discovery takes place, until we have five depositions, until we have interrogatories, until we have expert work, until we file our opening 50-page brief in support of our preliminary injunction do defendants finally moot their disclosures.

So they could have mooted us right away. That happened -- we've seen that before. If Your Honor recalls from the Zenith case, expedited

discovery was granted and two days later our disclosures were mooted. That happens on a regular basis. Instead, they forced us to go the whole nine yards or something awfully close to it to achieve these -- these very good disclosures.

So just to -- to wrap up on the fee on the disclosure, if a bucket is generally valued at between 400 and $500,000, two heavy buckets of A list disclosures took a lot of effort to achieve, I think the upper end of that range would be appropriate. And that would be a million-dollar fee. I think that's very conservative. Had we been here on -- on an interim fee application, I think that we would have had very strong arguments for a fee north of a million dollars, just given the -- the materiality of the disclosures and the quantity of the disclosures and, frankly, the effort it took to get them.

Putting it together with whether you look at it as 20 percent or 25 percent and, you know, more or less for the disclosures, $3 1/2 million here is really supportable from any angle that -- that you look at it. It's also all in with expenses, which the Court has expressed a preference for.

And the last point I'll make is

probably the first point I made, which, again, it's a product of an agreement with defendants. We would have -- we would have sought more had -- had we not come to an agreement, but --

THE COURT: I'm sure you would.

(Laughter)

MR. NOTIS: We also believe we're able to persuade them on how reasonable we are.

And unless Your Honor has any other questions, I -- I'd be happy to address them.

THE COURT: No, I don't. I'm -- I appreciate your presentation.

MR. NOTIS: Thank you.

THE COURT: Anything from the defendants?

MR. WELCH: Nothing, Your Honor.

THE COURT: Great.

MR. WELCH: Unless Your Honor has questions.

THE COURT: I don't. Thank you, Mr. Welch.

MR. JOHNSTON: No, sir.

THE COURT: Great. Thank you, Mr. Johnston.

THE COURT: Well, today's hearing is for me to consider the proposed settlement in In Re Student Loan Corporation Litigation, C.A. No. 5832. This was a consolidated litigation that concerned three transactions, each cross-conditioned: first, the sale to Citi of 8.7 billion of loans and other assets of Student Loan Corporation; second, the sale by SLC to Sallie Mae of 28 billion of securitized loans and other assets; and, finally, a merger of SLC with Discover Financial Services by which Citibank would divest its 80 percent holdings of SLC.

So I'm going to go through my four tasks, at least the four as I think of them. The first one is class certification. The class definition, as Mr. Notis covered, runs from the time between September 17, 2010, through December 31, 2010. It excludes Citi, Discover, and their affiliates, as well as their directors and executive officers. This class definition is reasonable and adequately cohesive for litigation. The boundaries are appropriate.

In terms of the Rule 23(a) requirements, as of October 31, 2010, there were 3,997,000 unaffiliated shares of SLC common stock. As Mr. Notis noted, the claims administrator's affidavit

of mailing indicates that the claims packets were mailed to 1,537 potential class members. The defendants acted in a manner that inflicted allegedly common injuries on all of the stockholders, such that they were all affected equally. In terms of typicality, the class members faced the same injury and the same conduct as the plaintiffs and all were affected in the same way in their capacity as stockholders where the plaintiffs are typical of the class.

In terms of the adequacy of the class representation, each was a holder during the relevant period. Based on the affidavits that were submitted, there is no indication of a divergence between the interests of the class, and they retained counsel well-known to the Court. So that element is adequately met. To confirm, the Rule 23(aa) affidavits have been filed showing that there is no divergent interest on behalf of plaintiffs here, Alan R. Kahn and Richard Gambino on behalf of the Electrical Workers Pension Fund, Local 103, I.B.E.W.

In terms of the Rule 23(b) requirements, I'll certify under Rule 23(b)(1) because the prosecution of separate acts by individual

stockholders would risk inconsistent and varying results and adjudication on behalf of one stockholder effectively would have been dispositive.

The class is also appropriately certified under Rule 23(b)(2) because the defendants acted generally with respect to class. So classwide declaratory or injunctive relief could well have been part of the remedy. Had there been some need to unwrap a portion of this transaction or to issue some type of relief in connection with it, it would have happened on a classwide basis involving some type of declaratory, possible injunctive or other equitable relief.

Consequently, I'm happy to certify this class as a non-opt-out class pursuant to Rules 23(b)(1) and (b)(2) of the Court of Chancery.

In terms of due process and notice, I previously determined in connection with the scheduling order that notice was preliminarily adequate. I have reviewed the notice again. It adequately describes the lawsuit at pages 4 through 6, the consideration of the settlement at pages 9 through 10, the location of settlement hearing at pages 10 through 11, and it informs class members of whom to

contact for further information. That's found at page 18.

The record reflects that it was adequately delivered. Christopher K. Cinek, C-i-n-e-k, a director of Georgeson, Inc., provided an affidavit on August 16th, 2011. Copies of the notice were mailed to each of the 101 banks and brokerages appearing on the DTC security position report. Notice additionally went out, as I previously recounted, to 1,537 potential class members. So, again, notice was adequate, and there's no due process problem here.

In terms of the merits of the settlement, my function is to consider the nature of the claim, the possible defenses thereto, the legal and factual circumstances of the case, and then to determine whether the settlement is reasonable in light of those factors.

I think this is, as Mr. Notis suggested -- I find myself agreeing with him a lot today -- an excellent settlement for the class, and I commend the plaintiffs for achieving it. The breach of fiduciary duty claims here, there were certainly some litigable points, but there were also substantial obstacles. For example, one of the issues was the

negotiation of the new omnibus agreement and the fact that Citi had, arguably, no ongoing duty -- certainly that would have been Citi's position -- to fund at any rate below market. Also, in terms of the shopping process, any bidder would have been aware that the new omnibus was disappearing and there was going to be a need to tap financing at effectively whatever market rates were. The -- it was not clear to what degree the new omnibus represented some type of value extraction. There were litigable issues as to the special committee process, but ultimately there were going to be strong valuation arguments on the defense side.

On this record, the plaintiffs achieved a total increase above the price achieved by the settlement -- let me say that again. They achieved a total increase above the price achieved by the special committee of $9,992,500. That's a 2 -- an increase of $2.50 per share, representing an 8.3 percent increase in the merger consideration. They also obtained supplemental disclosures through the mooting of those claims prior to the settlement hearing.

I do pause to notice, as Mr. Notis

did, and as their brief commented, that it is truly rare for plaintiffs to be able to achieve an increase over the price obtained by the special committee. I was trying to -- has it actually ever happened or is this the first time? Do you know, Mr. Notis?

MR. NOTIS: You know, Your Honor, just briefly, what -- what led -- what it reminded me of was that -- that Thomson and --

THE COURT: Yeah. Well, I saw it in your brief and, you know --

MR. NOTIS: That's why we put -- if you look at that, there were -- I think they cited a few cases. One of them was a case I had with Mr. Welch many years ago, Travelers Property Casualty, but it was -- it was a small increase over special committee.

THE COURT: Right.

MR. NOTIS: Nowhere near 8 percent. I think the only one that was higher was SFX Entertainment, which Your Honor may recall.

THE COURT: I do.

MR. NOTIS: But that was a different situation because it was -- someone's getting a little extra for a Class B stock that they arguably weren't

entitled to, and I think in that they got half of that back.

But that's why I just think -- I made the comments I did about the magnitude of the recovery.

THE COURT: It's certainly rare and commendable. I would like to think that it evidences the fantastic job that special committees are doing. But we all know that there's some suspicions that it may represent other dynamics. So it's very nice to see plaintiffs triaging a case, believing it has real merit, and pressing forward in a manner that gets incremental consideration.

So, again, I approve the settlement as fair and reasonable and as an excellent result.

In terms of the attorneys' fee award, Delaware's policy on attorneys' fees is to give plaintiffs ample incentives to bring real claims and to get real results for which they should receive a real and meaningful fee. At the same time we don't want to confer unjustified windfalls that result in socially detrimental litigation and simply waste societal resources.

In terms of the reasonableness of the

fee here, it's amply justified. And, again, it was very helpful to me to have the briefing explain the fee in terms at least I understand. I know I am perhaps idiosyncratic in this regard, but it was helpful to have you go through the benefits conferred and price them and explain them in a manner that made sense to me. By that I mean breaking out the amount that you thought was appropriate for the monetary compensation, analogizing that to specific precedents and not giving me simply a three-inch-long footnote string cite with, you know, single numbers in parentheses. It was also helpful the way you approached the disclosure benefits. And, you know, the table in the affidavit that I looked at was very helpful as well. So let me commend you for that.

The primary benefit, the financial benefit, is what I'll start with first. I think Mr. Notis analyzed it exactly the way I think about it. It's approximately $10 million. The fee comes in addition to that. So when you're thinking about how to solve for that, you know, if you're going to use 20 percent as your base, it's x equals .2 times the sum of the benefit + x. I'm probably not saying that right. I'll have to check that. I always write it

down every time. Anyway, when you solve for it at a 20 percent level, you get 2.5 million. If it creeps up higher in that benefit percentage, you get a higher number.

I think that this case readily supports a range in between the 20 and 25 percent mark. I don't need to be more specific than that to get to the number that the plaintiffs have asked for. And I say that because on the disclosure side, I likewise agree that you had a number of good disclosures. And if you bucket them, you easily could have been in the $400 to $500,000 range for each bucket, maybe a little higher, maybe a little lower. So if you give a little on the disclosures, you get a little on the -- on the financial side and vice versa. Either way, I think that the number that you all negotiated is well within the range, likely close to the middle of the range, as to how I would have thought about this. And so there's not a lot of need for me to try to put a finer point on it. I think you did a fine job explaining how you got there.

So the benefit conferred I think amply justifies the fee. And the other Sugarland factors can be checked off quite easily on the grounds that

are set forth in the brief.

So for all those reasons, I will award the full fee requested of $3.5 million, inclusive of expenses.

All right. So I've signed the updated order that Ms. Keener was kind enough to send over yesterday. I've put today's date on it, and I will hand it to the clerk so that it can be docketed.

So thank you, everyone, for coming in today. It was a well-litigated case. I think it was an excellent settlement. And, again, let me say, since I've criticized plaintiffs before when their submissions haven't been helpful, let me compliment you. This time your submissions were very helpful and I appreciate it.

We stand in recess.

(Court adjourned at 2:44 p.m.)

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CERTIFICATE

I, NEITH D. ECKER, Official Court Reporter for the Court of Chancery of the State of Delaware, do hereby certify that the foregoing pages numbered 3 through 37 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Vice Chancellor of the State of Delaware, on the date therein indicated, except for the rulings at pages 28 through 37, which were revised by the Vice Chancellor.

IN WITNESS WHEREOF I have hereunto set my hand at Wilmington, this 31st day of October 2011.

/s/ Neith D. Ecker

Official Court Reporter
of the Chancery Court
State of Delaware

Certificate Number: 113-PS
Expiration: Permanent