IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

IN RE MUTUAL FUNDS INVESTMENT LITIGATION	: MDL DOCKET NO. 1586 :
IN RE ALGER, COLUMBIA, JANUS, MFS, ONE GROUP, PUTNAM, PIMCO	: Civil No. 04-md-15863 (JFM) : :
This Document Relates to: ALGER SUB-TRACK	
Bernstein v. Fred Alger Management, Inc., et al.	: 04-0861 (D.Md.) :

[PROPOSED] FUND DERIVATIVE ORDER

For the reasons stated in the memoranda of opinion filed November 3, 2005 and March 1, 2006, it is this _____day of _____2006 ORDERED

- 1. Defendants' motions to dismiss are granted in part and denied in part;
- 2. The motions are denied as to the claim asserted under Section 36(b) of the Investment Company Act ("ICA") in Count I against defendants Fred Alger Management, Inc., and Fred Alger & Co. Inc.;
- 3. The motions are denied without prejudice as to the claim asserted under Section 48(a) of the ICA in Count V, as it relates to claims under Section 36(b), against defendants Fred M. Alger, III and Dan C. Chung;
- 4. The motions are granted as to the claim asserted under Section 48(a) of the ICA in Count V, as it relates to claims under Section 36(b), against defendants James P. Connelly and B. Joseph White and those claims are dismissed against those defendants without prejudice and with leave to replead within 20 days;
- 5. In accordance with the Order entered December 8, 2004, all claims against Canary Capital Partners LLC, Canary Capital Partners Ltd, Canary Investment Management LLC, and Edward J. Stern are stayed;
- 6. The motions are granted as to the remaining federal and state claims, and those claims are dismissed without leave to amend against defendants Fred Alger

Management Inc., Fred Alger & Co. Inc., Fred M. Alger, III, Dan C. Chung, Stephen E. O'Neil, Charles F. Baird, Jr., Roger P. Cheever, Lester L. Colbert, Jr., Nathan E. Saint-Amand, James P. Connelly, Jr., B. Joseph White, Aurum Securities Corp., Aurum Capital Management Corp., Bank of America Corp., Banc of America Securities LLC, Ryan Goldberg, Conseco Securities Inc., Kaplan & Co. Securities Inc., Pritchard Capital Partners LLC, Salomon Smith Barney Inc. (now known as Citigroup Global Markets, Inc.), Trautman Wasserman & Co. Inc., Wall Street Global, and Veras Investment Partners LLP.

J. Frederick Motz United States District Judge

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