IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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| IN RE MUTUAL FUNDS INVESTMENT LITIGATION | ) | MDL No. 1586 |
| | ) | Case No. 04-MD-15864-02 |
| This Document Relates To: *Invesco Sub-Track*, 04-md-15864-02 | ) | (Hon. J. Frederick Motz) |

**PLAINTIFFS' AND PLAINTIFFS' COUNSEL'S SUPPLEMENTAL MEMORANDUM OF LAW IN FURTHER SUPPORT OF FINAL APPROVAL OF PROPOSED SETTLEMENTS, PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS, AND APPLICATION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES IN THE INVESCO SUB-TRACK**

Dated: October 6, 2010

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Plaintiffs and Plaintiffs' Counsel respectfully submit this Supplemental Memorandum of Law and the supplemental declaration of Investor Class Lead Counsel (the "BLB&G Supplemental Declaration" or "BLB&G Supplemental Decl."), submitted herewith, in further support of their motions (i) for final approval of the proposed Settlements and the Plan of Allocation in the Invesco sub-track; and (ii) for an award of attorneys' fees and reimbursement of litigation expenses in the Invesco sub-track. The Court is also respectfully referred to the opening papers filed with the Court in support of these motions on September 14, 2010.[1]

## I. THE COURT SHOULD APPROVE THE SETTLEMENTS, PLAN OF ALLOCATION, AND REQUESTED AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

As set forth in detail in the materials submitted in support of Plaintiffs' and Plaintiffs' Counsel's motions on September 14, 2010, the proposed Settlements before the Court represent the favorable resolution of the investor class, derivative and ERISA claims asserted in this multi-district litigation concerning the Invesco/AIM mutual funds. These actions began in late 2003, and after many years of hard-fought litigation against five separate groups of defendants – each represented by separate, highly skilled and experienced counsel – Plaintiffs and their counsel have achieved valuable Settlements that will conclude all of the litigation and which have resulted, among other benefits, in the creation of a settlement fund in excess of $20 million. In sum, as set forth in detail in Plaintiffs' opening papers, the proposed Settlements were achieved

[1] In the interest of efficiency, this memorandum supports both Plaintiffs' motion for approval of the proposed Settlements and Plan of Allocation and accompanying submissions (Dkt. No. 1054) and Plaintiffs' Counsel's motion for an award of attorneys' fees and accompanying submissions (Dkt. No. 1055). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Preliminary Order for Notice and Hearing in Connection with Settlement Proceedings in the Invesco Sub-Track dated May 19, 2010 (Dkt. No.1020) (the "Preliminary Approval Order") and in the Declaration of Chad Johnson, William C. Fredericks and Jerald Bien-Willner in Support of Final Approval of Proposed Settlements, Plan of Allocation of Settlement Proceeds, and Application for Attorneys' Fees and Reimbursement of Litigation Expenses in the Invesco Sub-Track (the "BLB&G Declaration" or "BLB&G Decl.") filed on September 14, 2010 (Dkt. No. 1054-2).

through significant effort and they represent an excellent result for the Classes and the Invesco/AIM Funds, and fully warrant the Court's approval.

As described in the opening papers, pursuant to the Court's Preliminary Approval Order, an extensive and thorough Notice Program was implemented to advise those with an interest in the settlements of the existence of the Settlements and their rights related thereto, consistent with due process and relevant law and procedural rules. *See* Settlement Memorandum (Dkt. No. 1054-1) at §§ II.C.4, V. Specifically, as of October 1, 2010, over 2.1 million Notices have been mailed to potential members of the Investor Class. *See* Supplemental Declaration of Stephen J. Cirami Concerning the Notice Program and Report on Exclusion Requests Received in the Invesco Sub-Track (the "Cirami Supplemental Decl."), attached to the BLB&G Supplemental Decl. as Exhibit 1, at ¶ 5.

### A. The Settlements, the Plan of Allocation, and the Request for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses in the Invesco Sub-Track Should Be Approved Notwithstanding Any Objections That Have Been Expressed

As the opening papers established, the reaction of the Classes and current fund shareholders to the Settlements, the Plan of Allocation and the requested award of attorneys' fees and litigation expenses was overwhelmingly positive. *See* Settlement Memorandum at § II.C.4; Fee & Expense App. Memorandum (Dkt. No. 1055-1) at § IV.C.6. That trend continued through the objection deadline. Indeed, an empirical reference point for the Investor Class's non-opposition to and satisfaction with the settlements is the significant number of Investor Class Member claims that have been submitted to date: over 46,600. *See, e.g., In re Tyson Foods Inc.*, Civ. A. No. RDB-08-1982, 2010 WL 1924012, at *3 (D. Md. May 11, 2010) (fact that "significant number of class members" had already filed claims, supported the fairness and adequacy of the proposed settlement); *In re Prudential Secs. Inc. Ltd. P'Ships Litig.*, MDL No.

1005, 1995 WL 798907, at *13 (S.D.N.Y. Nov. 20, 1995) (fact that "low number of objections have been received, and a large number of claims have been filed" supported approval of settlement); *see* Cirami Supplemental Decl. ¶ 20. The 46,600 plus claims that have been filed represent an increase of over 8,900 claims since the opening papers were submitted less than one month ago, and numerous additional claims are anticipated in the next two months or so before the December 8, 2010, deadline for filing claims.[2] Thus, if the Settlements are approved, tens of thousands of people stand to benefit from them.

With three separate litigations resolved by the Settlements and a Notice Program that resulted in over 2.1 million mailings of the Notice and various forms of publication notice, it is not surprising that some objections have been received – as of October 6, 2010, a total of twenty-one (21). *See* BLB&G Supplemental Decl. ¶ 5. There have also been 62 requests for exclusion received as of October 5, 2010. *See* Cirami Supplemental Decl. ¶ 21. As detailed in the Settlement Memorandum, in considering approval of a proposed class action settlement, the small number of objections and opt-outs in comparison to the size of the settlement class provides evidence of the fairness of the Settlements. *See, e.g., In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 318 (3d Cir. 1998) (300 objections by class members and 19,000 opt-outs were "truly insignificant" in comparison to the 8 million policyholders provided with class notice and thus, "the limited number of objections filed . . . weighed in favor of approving the settlement"); *see generally* Settlement Memorandum at § II.C.4. Plaintiffs respectfully submit that the number of objections received is quite small in comparison to the size of the Classes.[3] Moreover, the fact that none of the objections or requests

[2] *See* Cirami Supplemental Decl. ¶ 20. In the experience of the Claims Administrator, many claims and institutional/electronic claims in particular, are often filed near or at the deadline. *See id.*

[3] Even where there are relatively numerous objections, which is not the case here, "a settlement is not

for exclusion have been filed by any institutional investors is a circumstance that courts have often found to support the conclusion that a proposed settlement is fair and reasonable.[4] *See id.* In any event, as discussed below, the objections that have been raised lack merit. These objections are addressed below.[5] For the convenience of the Court and the parties, Plaintiffs' Counsel have categorized the objections, below, based on their understanding of the primary concern(s) raised in each objection, although certain objections raise several points.

**Adequacy of Settlements.** Six objectors, Mr. and Mrs. Donald C. Shields, John H. Lawrence, Jim Peterson, James G. Daniel, Anista Lawrence-Kozel and Molly L. Lawrence, generally oppose the Settlements. *See* BLB&G Supplemental Decl. Ex. 2, at lines 3, 8, 13, 15, 18 and 19, respectively.[6] Mr. and Mrs. Shields object to the settlement because they believe that it is doing "nothing more than taking money from one pocket of the investors and putting it into the other pocket" and because "the actual perpetrators of the illegal schemes [will be] 'legally' excused from and absolved of any guilt and/or penalty for their misdeeds." Mr. Daniel, who made substantially similar objections in at least three other sub-tracks, takes issue with the size of the settlement recovery, deeming it a "token penalty," and asserts that the defendants are not being adequately punished. Mr. Lawrence, Ms. Anista-Lawrence, and Ms. Lawrence (the

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unfair or unreasonable simply because a large number of class members oppose it." *Flinn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1974).

[4] "Institutional investors" are entities such as "pension funds, mutual funds, banks, and other professional investors." *In re Recoton Corp. Sec. Litig.*, 248 F.R.D. 606, 612 (M.D. Fla. 2006). As noted above, here, not a single institutional investor has objected to the Settlements. Although Koch Industries, Inc., a privately-held diversified company, and its affiliates have requested exclusion from the Settlements, it is not an "institutional investor" in the sense traditionally understood by courts.

[5] As Investor Class Lead Counsel previously had informed the Court, efforts were made by Investor Class Lead Counsel and by The Garden City Group, Inc. to respond to any and all inquiries about the Settlements – including those that took the form of complaints or objections. As highlighted below, that outreach often resulted in the resolution of the concerns that had been raised.

[6] As discussed below, Mr. and Mrs. Shields, Mr. Lawrence, Ms. Lawrence-Kozel and Ms. Lawrence also object to the attorneys' fees requested by Plaintiffs' Counsel.

"Lawrences"), who all submitted substantially identical objections, state that they do not believe that "the terms of the settlements as specified will benefit the poor people that lost their life savings." Mr. Peterson's objection makes generalized comments about class actions, including his belief that corporate defendants typically pay "the absolute minimum amount" and that "the victims of these corporations get little or nothing out of the settlement."

As explained in detail in the opening papers, and as the Court is aware, these were extremely complex cases, and Plaintiffs faced significant risks in obtaining any recovery if they were to proceed with continued litigation and a possible trial. Indeed, in the Investor Class Action, Investor Class Lead Plaintiff would have faced significant obstacles in establishing the liability of the Settling Defendants and proving damages above the significant amounts that certain Settling Defendants had already paid in restitution to government regulators. Thus, in light of the considerable hurdles facing Plaintiffs in this litigation, a recovery in excess of $20 million in this matter is an extraordinary result for investors in the Invesco/AIM Funds.[7]

**Claims Process.** Twelve of the objectors – Frederick and Elaine Haas, Michael Silbergleid, Robert S. Moore, Vincent Rinaldo, Richard A. Osborn, Philip Glau, Theodore H. Meredith, Philip M. Perlstein, Gary Eifried, Rod Dickinson, Frank Anderson and Charles W. Medley – expressed dissatisfaction with the claims process. *See* BLB&G Supplemental Decl. Ex. 2, at lines 1, 2, 4, 5, 6, 7, 9, 10, 12, 14, 20 and 21.[8] These objections generally take issue with the requirement that Settlement Class Members provide information or documentation concerning their ownership of the Invesco/AIM Funds. In addition, Mr. Medley believes that

[7] The Settlements also provide a conduit for the distribution of over $11 million obtained by the Office of the New York Attorney General in a settlement with the Canary Defendants to members of the Investor Class.

[8] Upon outreach by Investor Class Lead Counsel, Mr. and Mrs. Haas were able to obtain shareholding information concerning several of their Invesco accounts and Ms. Haas indicated that her and her husband's objection had been resolved.

Investor Class Lead Counsel should complete and submit his claim form for him.

As explained in detail in the opening papers, in order to administer the proposed Plan of Allocation and accomplish a distribution of the Net Settlement Fund that bears a reasonable relation to the strength of Investor Class Members' relative claims, it is necessary for Investor Class Members to submit only basic information and documents demonstrating their ownership of Invesco/AIM Funds during the Class Period. Claimants are simply required to submit basic year-end information, instead of the detailed purchase and sale transaction information typically required in securities fraud class actions. In addition, the documentation requirement here is flexible by design – the claim form does not require any specific type of documentation of the shares held – and class members are encouraged to submit the best documentation they reasonably have or can obtain, such as tax filings, a signed letter from an accountant or broker, or any other verified information.

Furthermore, with respect to the Investor Class Members for whom Invesco possesses shareholding information – generally those investors who purchased or held shares directly with Invesco or AIM – a streamlined process has been developed and implemented allowing class members to call representatives of Invesco at a designated toll-free number and receive a summary statement of their Invesco/AIM Funds holdings, free of charge, that will allow them easily to complete the claim form and will be considered sufficient documentation to support the claim. As evidenced by the more than 46,600 claims that have already been filed in the Invesco sub-track, Plaintiffs respectfully submit that the Court-approved claims process is functioning as an effective method for Investor Class Members to demonstrate that they are entitled to payment from the settlement proceeds. *See, e.g., In re WorldCom, Inc. Sec. Litig.*, No. 02 CIV 3288 (DLC), 2004 WL 2591402, at *12 (S.D.N.Y. Nov. 12, 2004) (rejecting an objection to length

and complexity of claim form and requirement of submitting transaction information where numerous class members had already filed claim forms).[9]

**Plan of Allocation.** One objection has been made to the proposed Plan of Allocation, by Ruth A. Duxbury. *See* BLB&G Supplemental Decl. Ex. 2, at line 11.[10] Ms. Duxbury objected to the provisions of the Plan of Allocation that calculate claimants' Recognized Claim based on the number of shares owned at the end of each yearly interval without considering the amount of shares held during the course of the year. After extensive consideration of this issue, Investor Class Lead Counsel drafted the Plan of Allocation to calculate Recognized Claims based only on end-of-year holdings, rather than on an average yearly balance or on multiple dates throughout the year, in order to simplify the claims process and minimize the shareholding information required from Investor Class Members. This approach also recognizes that many Investor Class Members were "buy and hold" investors. Investor Class Lead Counsel believe that the proposed Plan of Allocation represents a reasonable approach that recognizes the relative strength of class members' claims based on their year-end holdings while minimizing the shareholding information required. Courts have repeatedly recognized that allocation formulas "need only have a reasonable and rational basis" and need not weigh class members' claims with "scientific precision." *In re The Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 258 (E.D. Va. 2009); *accord In re PaineWebber Ltd. P'ships. Litig.,* 171 F.R.D. 104, 133 (S.D.N.Y.), *aff'd*, 117 F.3d 721 (2d Cir. 1997).

[9] With the exception of Mr. Dickinson, whose objection indicated that he had already successfully obtained his shareholding records and submitted his claim form, each of these objectors was contacted to provide appropriate information and assistance concerning the various ways that shareholding information may be obtained – including, for example, by contacting Invesco toll-free for such information, to the extent that information is available.

[10] Upon outreach by Investor Class Lead Counsel and further explanation of what the litigation was about and how the claims process was intended to work, Ms. Duxbury indicated she understood and indicated that the bases for her objections had been addressed.

**Requested Award of Attorneys' Fees and Litigation Expenses.** Objectors Mr. and Mrs. Donald C. Shields, Robert S. Moore, John H. Lawrence, Jim Peterson, Anita J. McKenney, Cynthia A. Williams, Anista Lawrence-Kozel, Molly L. Lawrence, and Charles W. Medley have submitted objections concerning Plaintiffs' Counsel's request for attorneys' fees in the Invesco sub-track. *See* BLB&G Supplemental Decl. Ex. 2, at lines 3, 4, 8, 13, 16, 17, 18, 19 and 21. Mr. Moore and Ms. Williams directly object to the amount of attorneys' fees requested as excessive while Mr. and Mrs. Shields and Mr. Peterson make negative references regarding the amounts sought by attorneys. The Lawrences state that they believe that the Settlements will only benefit Class Counsel and Class Representatives.[11] Ms. McKenney believes that the Settlements are a "ripoff to enrich attorneys." Mr. Medley objects to the application for fees if lead counsel do not complete and submit a claim on his behalf.

As explained in detail in the opening papers, and as the Court is well aware, Plaintiffs' Counsel devoted a substantial amount of time and resources and overcame significant obstacles in achieving the excellent recovery in this litigation. In light of the results obtained, the complexity and amount of work involved, the attorney skill and expertise required, and the substantial risks of non-recovery that counsel undertook, the requested collective award of 15% of the Gross Settlement Fund is appropriate compensation for Plaintiffs' Counsel, and the requested 1.25% award for attorneys' fees and litigation expenses of Liaison Counsel is appropriate payment for its services performed in this matter. The overwhelmingly positive reaction to Plaintiffs' Counsel's fee and expense request further supports approval of the

[11] The Lawrences' objection concerning the amount of benefits received by Class Representatives is without any basis in fact. Investor Class Lead Plaintiff, the City of Chicago Deferred Compensation Plan, will receive only the same *pro rata* share of the Net Settlement Fund as any other class member, as calculated under the Plan of Allocation based on the number of shares in the Invesco/AIM Funds it owned during the Class Period.

requested amounts. *See, e.g., In re Xcel Energy, Inc. Sec., Derivative & ERISA Litig.*, 364 F. Supp. 2d 980, 996-98 (D. Minn. 2005) (where seven objectors from a class of 265,000 objected to attorneys' fees, the court found this a "miniscule number" which demonstrated that the reaction of the class supported the fee award); *In re Lucent Techs. Inc. Sec. Litig.*, 327 F. Supp. 2d 426, 435 (D.N.J. 2004) ("lack of a significant number of objections is strong evidence that the fees request is reasonable"). Moreover, as discussed in the memorandum in support of Plaintiffs' Counsel's motion for fees and expenses, federal courts in this Circuit and around the nation have consistently awarded fees in securities fraud cases and other comparable class actions that are similar or substantially higher than those requested here. *See In re Veritas Software Corp. Sec. Litig.*, No. 08-3627, 2010 U.S. App. LEXIS 20500, at *9 (3d Cir. Oct. 4, 2010) (unpublished opinion) (affirming approval of a 30% fee award for a $21.5 million settlement, and noting that the district court appropriately considered the fact that "counsel spent four years, and thousands of hours of attorneys' labor, litigating this case"); *see also* Fee & Expense App. Memorandum at § IV.A.[12]

### B. The "Objections" of Attorney Theodore Bechtold Should Be Rejected Because Bechtold Lacks Standing and His Objections Lack Merit

In addition to the objections addressed above, Attorney Theodore A. Bechtold has submitted objections on behalf of a client in the Strong sub-track and he urges that the Court consider and apply like objections to all other sub-tracks in the MDL. (04-md-15864, Dkt. Nos. 1062, 1068.) Bechtold admits that he lacks a client who is affected by the Settlements in the Invesco sub-track (or in any sub-track other than Strong). Bechtold's failure to step forward with

[12] As discussed in the BLB&G Supplemental Declaration, the amount of litigation expenses for which reimbursement is being sought has been adjusted slightly since the September 14, 2010 filing to reflect the final accounting for a residual amount in the Litigation Fund. Specifically, the litigation expenses sought have been reduced by $4,969.31, to $855,986.29.

a client is not for any lack of trying. Bechtold has extensively trolled the internet in search of persons willing to further his agenda of objecting to the mutual fund settlements.[13]

It is black-letter law that only a class member has standing to object to a proposed settlement and, accordingly, Bechtold's objections to the Invesco Settlements should be summarily rejected. *See* Fed. R. Civ. P. 23(e)(5) ("Any ***class member*** may object to the [settlement] proposal if it requires court approval . . ."") (emphasis added); *Gould v. Alleco, Inc.*, 883 F.2d 281, 284 (4th Cir 1989) ("non-class members have no standing to object . . . to a proposed class settlement"); *In re CP Ships Ltd. Sec. Litig.*, No. 8:05-MD-1656, 2008 WL 2473684, at *1-*2 (M.D. Fla. June 19, 2008) (noting that "only 'class members' may object to a proposed class action settlement" and rejecting objection by a plaintiff in a parallel class action for lack of standing).

Indeed, Bechtold should be well aware of the basic requirement of standing: on at least one other occasion, he sought to raise objections in a securities class action despite his lack of a class member as a client, and the court refused to consider his objections. *See In re Genta Sec. Litig.*, No. 04-2123 (JAG), 2008 WL 2229843, at *5 (D.N.J. May 28, 2008) ("Bechtold's objections should not be taken into consideration because he submitted no information identifying any potential members of the Settlement Class on whose behalf he was speaking. Indeed, Bechtold admitted at the Fairness Hearing that he has no standing to raise objections against the Settlement.").

[13] *See, e.g.,* Mutual Fund Objector, http://www.mutualfundobjector.com/ (visited Aug. 23, 2010) ("Whatever your reason for objecting I can provide a way which may effect [sic] the outcome of these cases and possibly improve your recovery. The only way I can successfully do so is if I represent actual clients that are Class members. You will never have to pay me a fee. My compensation will result from the financial benefits gained by all class members when we are successful.") (BLB&G Supplemental Decl. Ex. 3); Facebook – Mutual Fund Objector, http://www.facebook.com/pages/Mutual-fund-objector/145418755482040 (visited Sept. 23, 2010) (BLB&G Supplemental Decl. Ex. 4).

Moreover, as another court has recognized, "Bechtold [is] a serial objector." *See In re Initial Pub. Offering Sec. Litig.*, No. 21 MC 92 (SAS), 2010 WL 2884794, at *2 (S.DN.Y. July 20, 2010). "Federal courts are increasingly weary of professional objectors . . . who seek out class actions to simply extract a fee by lodging generic, unhelpful protests." *O'Keefe v. Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 295 n.26 (E.D. Pa. 2003).

In any event, Bechtold's objections lack merit. Bechtold's generalized objections to the attorneys' fees sought and to the requirement that Class Members provide documentation of their ownership of the relevant mutual funds should be rejected for the reasons discussed in the opening papers and herein. Bechtold also raises several other unmeritorious arguments that have not been raised by a single one of the millions of Investor Class Members who actually do have standing to raise such objections. In light of Bechtold's admitted lack of standing to raise these arguments, the merits of his objections will be addressed briefly here.

**Notice.** Bechtold's "objection" to the notice provided to Class Members is so generic and lacking in any specific reference to the distinct notices used in each sub-track that it hardly merits discussion. In any event, as discussed in Lead Plaintiffs' earlier papers, the Notice used in the Invesco sub-track contained all the information required by the PSLRA and Rule 23. Courts have recognized that in the interest of providing sufficiently detailed and legible information to class members, the PSLRA requirement that certain information appear in a "cover page" is not applied formulaically, so long as all the required information is included prominently in an early portion of the notice. *See In re Indep. Energy Holdings PLS Sec. Litig.*, 302 F. Supp. 2d 180, 184-85 (S.D.N.Y. 2003) (notice was valid where PSLRA cover page information was spread over two pages, so long as it was "readily ascertainable and understandable"); *McNamara v. Bre-X Minerals Ltd.*, 214 F.R.D. 424, 432 (E.D. Tex. 2002) (same).

**Attorneys' Fees.** In addition to making generalized arguments about the excessiveness of the attorneys' fees sought (which make no reference at all to individual sub-tracks, despite the different facts surrounding each settlement and the differences in the percentage fees sought), Bechtold also argues that any legal fees should be awarded as a percentage of the net settlement fund (that is, of the settlement fund after deduction of expenses). However, courts in this Circuit routinely award attorneys' fees as a percentage of the total (gross) settlement amount. *See, e.g., Mills*, 256 F.R.D. at 266 (awarding "18% of the total Settlement Fund"); *Jones v. Dominion Res. Servs.*, 601 F. Supp. 2d 756, 766 (S.D.W.Va. 2009) (awarding 20% of total settlement fund); *see also, e.g., In re AT&T Corp.*, 455 F.3d 160, 172 n.8 (3d Cir. 2006) (rejecting objector's view that attorneys' fees must be calculated based on the net settlement amount, noting that "[e]xpenses are generally considered and reimbursed separately from attorneys' fees"); *Powers v. Eichen*, 229 F.3d 1249, 1258 (9th Cir. 2000) (holding that district court did not err in calculating attorneys' fees as a percentage of gross recovery and observing that "the choice of whether to base an attorneys' fee award on either net or gross recovery should not make a difference so long as the end result is reasonable"). Whatever denominator is used as the basis for the percentage method, the relevant question is whether the attorneys' fees awarded are reasonable. *See Powers*, 229 F.23d at 1258. As discussed above and in Plaintiffs' Counsel's earlier papers, the fee requested here is reasonable.[14]

**Minimum Payments.** Bechtold also objects to provisions of the various plans of allocation that require a certain level of recovery before payments will be made (in the Invesco sub-track, $20). A minimal payment threshold is a common feature of allocation plans in

[14] Bechtold also argues that attorneys' fees are excessive in part because of counsel's alleged extensive reliance on the SEC investigations. This is not the case. The Actions in this sub-track were initiated and well under way before several of the SEC civil enforcement actions gained traction. In fact, the amounts paid by certain defendants in their regulatory settlements were put forward by those same defendants as a defense to Plaintiffs' recovery in these Actions.

securities class actions – a feature which benefits the class as a whole by eliminating payments to claimants for whom the cost of processing claims and printing and mailing checks would likely exceed the value of their claim. Such minimum payment thresholds have been repeatedly upheld. *See, e.g., In re Merrill Lynch & Co. Research Reports Sec. Litig.*, No. 02 MDL 1484 (JFK), 2007 WL 4526593, at *12 (S.D.N.Y Dec. 20, 2007) (approving $50 minimum distribution amount and noting that "courts have approved minimum payouts in class action settlements in order to foster the efficient administration of the settlement."); *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1268 (D. Kan. 2006) ($25 minimum approved); *In re Global Crossing Sec. & ERISA Litig.,* 225 F.R.D. 436, 463 (S.D.N.Y. 2004) ("[c]lass counsel are entitled to use their discretion to conclude that, at some point, the need to avoid excessive expense to the class as a whole outweighs the minimal loss to the claimants who are not receiving their *de minimis* amounts of relief"); *see generally* 3 ALBA CONTE & HERBERT B. NEWBERG, NEWBERG ON CLASS ACTIONS § 10:14, at 512 n.12 (4th ed. 2002) ("most distribution schemes for class recovery provide a minimum threshold amount of a claim for eligibility to participate") 2 JOSEPH M. MCLAUGHLIN, MCLAUGHLIN ON CLASS ACTIONS § 6:22 (6th ed. Westlaw 2009) ("Courts have recognized that minimum payment thresholds for payable claims benefit the class as a whole because they protect the settlement fund from being depleted by the administrative costs associated with claims unlikely to exceed those costs."). Tellingly, none of the class members who actually owned shares in Invesco Funds during the Investor Class Period and who, thus, might actually be affected by the *de minimis* provision have objected to it.

## II. CONCLUSION

For the reasons stated herein and in the opening papers, Plaintiffs and Plaintiffs' Counsel respectfully request that the Court grant the pending motions (i) for final approval of the proposed Settlements and the Plan of Allocation in the Invesco sub-track; and (ii) for an award of

attorneys' fees and reimbursement of litigation expenses in the Invesco sub-track. Furthermore, for all the reasons set forth above and in the opening papers, it is respectfully submitted that each of the objections submitted in the Invesco sub-track lack merit and should be overruled by the Court.

DATED: October 6, 2010

Respectfully submitted,

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