

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

AIMSI TECHNOLOGIES, INC., REGINALD HALL,
HAROLD DEMPSEY "BUTCH" BALLOW,
EVERETT BASSIE, WINFRED FIELDS, AND
BRUCE CHARLES POLLOCK

Defendants,

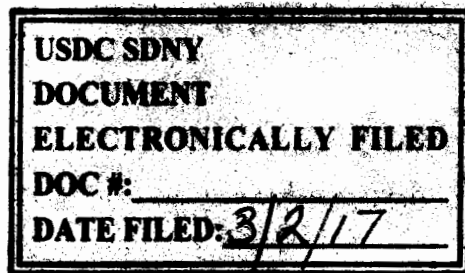
- and -

WILLIAM WATKINS, DOLORES WATKINS,
WRIGHT FAMILY HOLDINGS, INC., WRIGHT
FAMILY TRUST, GBY INTERNATIONAL PUBLIC
RELATIONS, INC., BP INTERNATIONAL, INC.,
SECURE RELEASES, INC., CHINA GLOBAL
DISTRIBUTION CORP., LINES OVERSEAS
MANAGEMENT, WONDERLAND CAPITAL
CORP., PRIVATE FUNDING CORP., and
OREKOYA CAPITAL CORP.,

Relief Defendants.

05-CV-4724 (LLS)

Judge Louis L. Stanton



ORDER APPROVING PLAN OF DISTRIBUTION

The Court, having considered Plaintiff's Motion for an Order Approving a Plan of Distribution (the "Motion"), the Memorandum of Law in Support, the supplement thereto and the proposed Plan of Distribution filed on March 1, 2017 ("Distribution Plan") and for good cause shown, the Court grants the Motion and approves in its entirety the Distribution Plan attached hereto. The Distribution Plan shall govern

the administration and distribution of the Fair Fund previously established by order entered
January 6, 2015.

SO ORDERED.

Dated: March 2, 2017

Louis L. Stanton
Honorable Louis L. Stanton
United States District Judge
Southern District of New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMMISSION,

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05-CV-4724 (LLS)

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Defendants,

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INC., BP INTERNATIONAL, INC., SECURE
RELEASES, INC., CHINA GLOBAL
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PLAN OF DISTRIBUTION

I. INTRODUCTION

1. The Commission brought this civil injunctive action in 2005 alleging that the defendants had violated the antifraud provisions of the federal securities laws, Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5

thereunder, 17 C.F.R. § 240.10b-5, in connection with a “pump-and-dump” scheme involving the securities of AIMS Technologies, Inc. (“AIMS”). In summary, the Commission alleged that the defendants intentionally manipulated the market for the common stock of AIMS, a company which claimed to be developing a hand-held security device known as the Automatic Large Area Radiation Mapper (“ALARM”). AIMS became public through a “reverse merger” in June 2004, and from July 2004 until at least November 2004 the defendants ran a promotional campaign consisting of press releases, mass faxes, and internet postings in which they repeatedly and deliberately materially misrepresented AIMS’s financial prospects and touted AIMS common stock.

2. The defendants and the relief defendants sold large quantities of AIMS common stock to the investing public, receiving at least \$3 million in trading profits.

3. Subsequently the Court entered judgments against some of the defendants and the relief defendants providing for monetary relief as follows:

- a. Defendant Bruce Charles Pollock (“Pollock”) (Dkt. No. 66), entered on May 9, 2007, providing for disgorgement of \$69,860.28, prejudgment interest of \$10,139.72, and a civil penalty of \$170,000.00, for a total of \$250,000.00;
- b. Relief defendant William Watkins (“Watkins”) (Dkt. No. 67), entered May 9, 2007, providing for disgorgement together with prejudgment interest in the total amount of \$250,000.00;
- c. Defendant Winfred Fields (“Fields”) (Dkt. No. 87), entered January 15, 2008, not ordering a civil penalty and waiving payment of all but \$62,035.00 of the \$413,572.13 in disgorgement and pre-judgment interest ordered;

- d. Defendant AIMSI (Dkt. No. 88), entered January 15, 2008, not ordering a civil penalty and waiving payment of all but \$50,525.51 of the \$202,423.62 in disgorgement and pre-judgment interest ordered;
 - e. Relief defendant Orekoya Capital Corp. ("OCC") (Dkt. No. 126), by default, entered August 10, 2009, providing for disgorgement of \$505,220.91, together with prejudgment interest of \$158,329.99, for a total amount of \$663,550.90;
 - f. Defendant Reginald Hall ("Hall") (Dkt. No. 127), entered August 10, 2009, providing for disgorgement of \$448,616.00, prejudgment interest of \$149,944.04, and a civil penalty of \$448,615.00, for a total amount of \$1,047,175.04; and
 - g. Defendant Harris Dempsey "Butch" Ballow ("Ballow") and relief defendants Wright Family Holdings, Inc. ("WFH"), Wright Family Trust ("WFT"), and Lines Overseas Management ("LOM") (Dkt. No. 128), entered August 10, 2009, providing that Ballow, WFH and WFT are jointly and severally liable for disgorgement of \$2,229,087.07 and prejudgment interest of \$710,766.99, for a total of \$2,939,854.06; providing further that LOM transmit to the Clerk all funds held by LOM and/or LOM Securities (Bahamas) Limited in Account No. 6030065 in the name of WFH and in Account No. 600-0065 entitled LOM Bahamas - Wright Family Legal Suspense; and providing further that Ballow pay a civil penalty of \$2,229,087.07.
4. To date, the following payments have been made by the defendants and relief defendants to the Court Registry Investment System ("CRIS"):
- a. Watkins, \$250,000.00, current balance with interest, approximately \$259,829.53;
 - b. WFT, \$342,573.17, current balance with interest, approximately \$375,270.23;

- c. Fields, \$62,035.00, current balance with interest approximately \$62,035.37;
 - d. AIMSI, \$50,431.51, current balance with interest, approximately \$50,888.66;
 - e. WFH, \$397,599.42, current balance with interest, approximately \$399,204.46;
 - f. Pollack, \$52,550.60, current balance with interest, approximately \$53,329.05;
 - g. Hall, \$14,053.91, current balance with interest, approximately \$14,093.36; and
 - h. Ballow, \$24,601.03, current balance with interest, approximately \$24,675.09.
5. In addition, Pollack paid \$5,788.49 to the Commission.¹

6. The judgments entered in this action providing for monetary relief expressly authorize the Commission to “by motion propose a plan to distribute the Fund subject to the Court’s approval.” They further provide that “[s]uch a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.”

7. On January 6, 2015, a Fair Fund (“Fair Fund”) was established by the Court to compensate investor victims of the fraud, and Damasco & Associates LLP² was appointed as the tax administrator (“Tax Administrator”) to handle the tax obligations of the Fair Fund. On October 7, 2016, the Court appointed Analytics Consulting, LLC (“Analytics”) as the distribution agent (“Distribution Agent”) for the Fair Fund overseeing the administration and distribution of the Fair Fund. The Commission now moves the Court to approve the proposed plan of distribution (“Distribution Plan”).

8. The current balance of the Fair Fund is approximately \$1,245,114.24.

¹ These payments were made pursuant to Order of Payments issued in SEC v. AIMSI Technologies Inc. and Bruce Charles Pollock, Civ. Action No. 4:12-mc-613 (January 5, 2015).

² As of October 1, 2016, Damasco & Associates LLP became part of Miller Kaplan Arase LLP. The firm’s engagement with the SEC and its ability to carry out its duties as the appointed Tax Administrator for this case has not changed.

II. DEFINED TERMS

As used herein, the following definitions shall apply:

9. “**Affiliate**” shall have the meaning set forth in Section 101(2) of the United States Bankruptcy Code, 11 U.S.C. § 101(2).

10. “**Claim Deficiency Notice**” means the notice sent by the Distribution Agent to a Potentially Eligible Claimant whose claim is deficient in one or more ways (*e.g.*, failure to provide required information or documentation). The Claim Deficiency Notice shall advise the Potentially Eligible Claimant of the reason or reasons for the deficiency and give the opportunity to cure such deficiency. A Claim Deficiency Notice shall be provided no later than ninety (90) days after the Claims Bar Date. Subject to certain extensions provided for in this Distribution Plan, the deadline to cure deficiencies shall be thirty (30) days from the date of the Claim Deficiency Notice.

11. “**Claims Bar Date**” means the date established in accordance with this Distribution Plan by which Proof of Claim Forms must be postmarked or submitted electronically in order to receive consideration under this Distribution Plan. Subject to certain extensions provided for in this Distribution Plan, the Claims Bar Date will be one hundred and twenty (120) days from the initial Summary Notice Publication.

12. “**Claims Determination Date**” shall mean the date on or before which the Distribution Agent is to reach its final determination concerning the validity and amount of each Potentially Eligible Claimant’s claim. Except as otherwise provided herein, the Claims Determination Date shall be no later than one hundred and eighty (180) days following the Claims Bar Date.

13. “**Days**” shall mean calendar days, unless specified otherwise.

14. “**Determination Notice**” shall mean the notice sent by the Distribution Agent to all Potentially Eligible Claimants who submitted a Claim Form. The Determination Notice will set forth the Distribution Agent’s determination of the eligibility of the claim (wholly deficient or eligible) and the Eligible Loss Amount. The Determination Notice will constitute the Distribution Agent’s final ruling regarding the status of the claim.

15. “**Distribution Agent**” means Analytics Consulting, LLC (collectively with all employees, consultants, or independent contractors of such firm), which has been appointed by the Court to administer and distribute the Fair Fund in accordance with this Distribution Plan and the Court's orders.

16. “**Distribution Payment**” shall mean the funds allocated to an Eligible Claimant in accordance with this Distribution Plan. The *de minimis* threshold for a Distribution Payment is \$10.00; therefore, a Distribution Payment must equal or exceed \$10.00 in order for a distribution to be made to an Eligible Claimant.

17. “**Distribution Plan Notice**” shall mean the notice given to Potentially Eligible Claimants of their potential right to participate in the distribution of the Fair Fund and their obligation to file a Proof of Claim Form in order to participate. The Distribution Agent, in consultation with the staff of the Commission, shall design the Distribution Plan Notice, consistent with the provisions of this Distribution Plan, and such notice shall include, at a minimum, a statement that the Fair Fund relates to the “pump-and-dump” scheme involving the common stock of AIMSI, formerly known as “Advanced Integrated Management Services, Inc.,” the means of obtaining Notice Packets (including Proof of Claim Forms), instructions for submitting Proof of Claim Forms, and the Claims Bar Date. The Distribution Plan Notice shall

advise Potentially Eligible Claimants that by participating in the distribution of the Fair Fund, they will not be releasing any rights or claims they may have against any party (other than with respect to the Distribution Agent), including but not limited to, any party's past and present directors, officers, promoters, advisers, agents, affiliates, nominees, assigns, creditors, or controlled entities. The notice will be both mailed and published according to the schedule detailed herein.

18. **"Eligible Claimants"** means a Potentially Eligible Claimant who suffered an Eligible Loss Amount as a result of transactions in Eligible Securities during the Recovery Period and who is determined by the Distribution Agent to be eligible for a Distribution Payment from the Net Fair Fund pursuant to the Plan of Allocation. An Eligible Claimant shall not include:

- a. Any director or officer, or former director or officer, of defendants or relief defendants, or any of defendants' or relief defendants' past or present Affiliates who served in such a capacity during the Recovery Period and were directly involved in the conduct detailed in the Complaint;
- b. Any employee or former employee of defendants or relief defendants or any of its past or present Affiliates who has been terminated for cause in connection with the violations alleged in the complaint or any related Commission action, or who was otherwise terminated or has resigned in connection with the violations alleged in the complaint or any related Commission action;
- c. Any defendant or relief defendant in any action brought by the Commission or any class action lawsuit related to the conduct described in the Commission's complaint in this action or any related Commission action unless and until such

defendant or relief defendant is found not liable in all such civil suits prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant's or relief defendant's timely filed Proof of Claim Form;

- d. Any Person who, as of the Claims Bar Date, has been the subject of criminal charges related to the violations alleged in the Commission's complaint in this action or any related Commission action unless and until such defendant is found not guilty in all such criminal actions prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant's timely filled Proof of Claim Form;
- e. Any Affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities of any of the foregoing persons or entities described in paragraph 18 (a)-(d) above;
- f. Any Person who assigned their right to obtain a recovery in the Commission's action against defendants or relief defendants; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise or operation of law; or
- g. The Distribution Agent, its employees, and those Persons assisting the Distribution Agent in its role as the Distribution Agent.

19. **"Eligible Loss Amount"** is the amount of loss an Eligible Claimant incurred through the investment in Eligible Securities during the Recovery Period calculated in accordance with the Plan of Allocation. A Potentially Eligible Claimant's Eligible Loss Amount will be reduced by the amount of any compensation for the loss that resulted from the conduct described in the complaint in this case that was received from another source (*e.g.*, class action settlement), to the extent known by the Distribution Agent.

20. “**Eligible Purchase Date**” is the “trade” date as distinguished from the “settlement” date on which AIMS common stock was purchased.

21. “**Eligible Securities**” shall mean AIMS common stock shares purchased during the Recovery Period.

22. “**Fair Fund**” refers to the fund created by the Court pursuant to the provisions of Sarbanes-Oxley, as amended, as to the disgorgement, prejudgment interest and civil penalties paid by the defendants and relief defendants in compliance with the final judgments in this case, plus any accumulated interest or earnings thereon or any additions thereto as may be provided by future Court order or agreement in related cases or otherwise.

23. “**Net Fair Fund**” shall mean Fair Fund, plus accumulated interest earnings thereon, less amounts expended for tax obligations and fees and costs of administering the Fair Fund in accordance with this Distribution Plan.

24. “**Notice Packet**” shall mean the materials relevant to submitting a claim that will be provided to Potentially Eligible Claimants known to the Distribution Agent or to those people who request such materials. The Distribution Agent, in consultation with the staff of the Commission, shall prepare the Notice Packet, which shall include, at a minimum, a copy of the Distribution Plan Notice and the Proof of Claim Form (together with instructions for completion of the Proof of Claim Form). The Notice will inform investors, among other things, of their right to object to the Court regarding any dispute which the investors are unable to resolve with the court-appointed Distribution Agent or regarding any objection the investor may have to the Distribution Plan.

25. “**Person**” shall mean a natural individual as well as a legal entity, such as a corporation, partnership, limited liability company, or governmental entity.

26. “**Plan of Allocation**” shall mean the methodology by which a Potentially Eligible Claimant’s Eligible Loss Amount is calculated. The Plan of Allocation is set forth in Exhibit 1 and attached hereto.

27. “**Potentially Eligible Claimants**” shall mean those Persons, or their lawful successors, identified by the Distribution Agent as having possible claims to recover from the Net Fair Fund under this Distribution Plan, or Persons asserting to have possible claims to recover from the Net Fair Fund under this Distribution Plan.

28. “**Proof of Claim Form**” shall mean the form designed by the Distribution Agent in accordance with the terms of this Distribution Plan for the filing of proof of a Potentially Eligible Claimant’s claim, which form shall require, at a minimum, sufficient documentation reflecting the Potentially Eligible Claimant’s purchases and sales of Eligible Securities during the Relevant Period, and the tax identification number of the Potential Claimant.

29. “**Pro Rata Share**” is a computation intended to measure Potentially Eligible Claimants’ claims against one another. Should the total Eligible Loss Amount of all Eligible Claimants exceed the Net Fair Fund, the Distribution Agent will distribute funds to the Eligible Claimants based upon a *pro rata* distribution formula. The Distribution Agent shall determine each Eligible Claimant’s *pro rata* share of the Fair Fund based upon each Eligible Claimant’s Eligible Loss Amount divided by the total Eligible Loss Amounts of all Eligible Claimants.

30. “**Recognized Loss (or Gain) per Share**” shall mean the Potentially Eligible Claimant’s recognized loss or gain per share of Eligible Securities during the Recovery Period, pursuant to the Plan of Allocation, attached as Exhibit 1.

31. “**Recovery Period**” shall mean July 1, 2004 and continuing until 11:59 p.m. EST on December 14, 2004.

32. “**Summary Notice Publication**” shall mean publication of the Distribution Plan Notice, or a notice closely resembling the Distribution Plan Notice, in print or internet media in a manner deemed appropriate by the Distribution Agent and not unacceptable to the Commission staff.

33. “**Tax Administrator**” shall mean Damasco & Associates LLP,³ the firm appointed by the Court.

III. PLANS AND PROCEDURES

A. General Provisions

34. The Distribution Agent shall oversee the administration of the claims, procedures, and distribution as provided in this Distribution Plan. The Distribution Agent shall review the claims of Potentially Eligible Claimants and make determinations under the criteria established herein as to the eligibility of each Potentially Eligible Claimant to recover monies and the amount of money to be distributed from the Fair Fund to each Eligible Claimant.

35. Any claim asserted by a Potentially Eligible Claimant shall be in writing or filed online and shall provide adequate documentary evidence to substantiate the claim, including all documentary evidence that the Distribution Agent deems necessary or appropriate including but not limited to, available account statements and trade confirmations.

36. All claims must be verified on the basis of a signed Proof of Claim Form executed by the Potentially Eligible Claimant or its representative under the penalty of perjury under the laws of the United States.

37. The receipt of Eligible Securities during the Recovery Period by gift, inheritance, devise, or operation of law shall not be deemed to be a purchase of Eligible Securities during the Recovery Period, nor shall it be deemed an assignment of any claim relating to the purchase of

³ *Supra* fn. 2.

such securities unless specifically so provided in the instrument of gift or assignment. However, the recipient of Eligible Securities as a gift, inheritance, devise or operation of law shall be eligible to file a Proof of Claim Form and participate in the distribution of the Fair Fund to the extent the particular donor or decedent as the actual purchaser of Eligible Securities would have been eligible. However, the donee and the donor may not both make a claim with regard to the same Eligible Securities. If both the donor and the donee make such a claim, only the claim filed by the donee will be honored.

38. To the extent that an Eligible Claimant, his or her representative, heir, successor, or assign requests a distribution check to be issued or reissued in a different name than the Eligible Claimant (*e.g.*, as the result of a name change because of marriage or divorce, or as the result of death), the Distribution Agent shall honor such request upon receipt of a written request and documentation, which the Distribution Agent in its sole discretion deems appropriate to substantiate the request.

39. Claims on behalf of a retirement plan covered by Section 3(3) of Employee Retirement Income Security Act, 29 U.S.C. § 1002(3), which do not include Individual Retirement Accounts, and such plan's participants, are properly made by the custodian or fiduciary of the plan and not by the plan's participants. The Distribution Agent shall distribute any payments on such claims directly to the custodian or fiduciary of the retirement plan. The distribution shall be accompanied by a list of plan participants and the number of shares owned by each plan participant, if that information is known to the Distribution Agent or provided to the Distribution Agent. The custodian or fiduciary of the retirement plan shall distribute any payments received in a manner consistent with its fiduciary duties and the account or plan provisions. With respect to any retirement plan that has been closed prior to the Distribution

Agent's identification of Potentially Eligible Claimants, the Distribution Agent shall endeavor to distribute funds directly to the beneficial accountholders of such retirement plans if the information required for such a distribution is known to or provided to the Distribution Agent prior to the Claims Bar Date.

40. Claims resulting in a Distribution Payment of less than the *de minimis* amount of \$10.00 will not be paid.

B. Identification of and Notice to Potentially Eligible Claimants

41. The Distribution Agent shall, insofar as is practicable, identify individual Potentially Eligible Claimants from a review of trading records, account information provided by registered broker-dealers and investment advisers, and any other source available to them.

42. Within forty-five (45) days following the entry by the Court of its order approving this Distribution Plan, the Distribution Agent shall:

- a. Design a Notice Packet, which shall be submitted to Commission staff for review and approval;
- b. Create a mailing and claims database, consisting of information in the trading records for Eligible Securities obtained by the Commission staff or information otherwise obtained by the Distribution Agent;
- c. Run a National Change of Address search to retrieve updated addresses for all records in the new database, thereby ensuring updated mailing information for Potentially Eligible Claimants;
- d. Mail by United States First Class Mail a Notice Packet to each Potentially Eligible Claimant known to the Distribution Agent;

- e. Establish a website for the administration of the Fair Fund, www.AIMSITechnologiesDistributionFund.com, from which each Potentially Eligible Claimant may request a Notice Packet by mail or download a copy of the Notice Packet and other relevant documents online;
- f. Establish an email address of Claims@AIMSITechnologiesDistributionFund.com;
- g. Establish a toll-free telephone number, 866-562-5857, by which Potentially Eligible Claimants can obtain information about the Fair Fund;
- h. Provide a copy of the Distribution Plan and Distribution Plan Notice to the Commission staff and request that the Commission staff post the Distribution Plan and the Distribution Plan Notice on the Information for Harmed Investors Page on the Commission's website, www.SEC.gov, and establish a link to the Fair Fund's website;
- i. Publish a copy of the Summary Notice Publication, approved by the Commission staff, and disseminate the Summary Notice Publication via PRNewswire once a week for three consecutive weeks within five (5) days of the initial mailing of Notice Packets to Potentially Eligible Claimants; and
- j. Deliver electronic copies of the Proof of Claim Form to electronic filers who regularly submit electronic claims on behalf of their clients.

43. The Distribution Agent will also send Notice Packets and cover letters to brokerages and other institutions ("Nominal Holders") that hold securities in "street name" as nominees for the benefit of their customers who are the beneficial owners of the securities. The Distribution Agent will require that these entities, to the extent that they were record holders for beneficial owners of the Eligible Securities:

- a. Notify the respective beneficial owners within fourteen (14) days of receipt of the Distribution Agent's notice so that beneficial owners may timely file a claim. The burden will be on the Nominal Holders to ensure the Notice Packet and other relevant materials are properly disseminated to their customers; and/or
 - b. Provide the Distribution Agent a list of last known names and addresses for all beneficial owners for whom the record holders purchased (or sold in the case of put options) Eligible Securities during the Recovery Period so that the Distribution Agent can communicate with them directly.
44. The Distribution Agent shall supply a Notice Packet to any Potentially Eligible Claimant who so requests via mail, phone or e-mail, as set forth in the Distribution Plan Notice.
45. The Distribution Agent shall attempt to locate any Potentially Eligible Claimant whose Notice Packet has been returned by the United States Postal Service ("USPS") as undeliverable. The Distribution Agent shall immediately mail again any returned undelivered mail for which the USPS has provided a forwarding address.
46. Additionally, the Distribution Agent may engage a third-party search firm (Experian) to conduct more rigorous searches for addresses of missing Potentially Eligible Claimants. Additional efforts to identify new addresses for returned undelivered mail will be conducted, as necessary and economically reasonable, after consultation with the staff of the Commission.

C. Review of Claims Process

47. The Distribution Agent shall review each Proof of Claim Form received to determine the validity and amount of such Potentially Eligible Claimant's Eligible Loss Amount, together with any additional conclusions of the Distribution Agent on other issues relevant to the

claim. Each Potentially Eligible Claimant shall have the burden of proof to establish the validity and amount of his or her claim. The Distribution Agent shall have the right to request, and the Potentially Eligible Claimant shall have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

48. To avoid being barred from asserting a claim, each Potentially Eligible Claimant must submit to the Distribution Agent a properly completed Proof of Claim Form reflecting such Potentially Eligible Claimant's claim, together with all supporting documentation on or before the Claims Bar Date. The Claims Bar Date may be extended for one or more Potentially Eligible Claimants by the Distribution Agent, in its sole discretion, in which event such extension shall constitute the Claims Bar Date for such Potentially Eligible Claimants. Unless otherwise determined by the Distribution Agent, in its sole discretion, for good cause shown, any Potentially Eligible Claimant who does not file a properly completed and documented Proof of Claim Form, including the Potentially Eligible Claimant's Tax Identification Number, postmarked by (or received by the Distribution Agent if submitted electronically to the Distribution Agent) on or before the Claims Bar Date shall be barred from asserting a claim against the Distribution Agent or the Fair Fund.

49. A claim will not be deemed submitted unless the Potentially Eligible Claimant receives an "Acknowledgement Postcard" or an electronic acknowledgement from the Distribution Agent. The Acknowledgement Postcard or the electronic acknowledgement shall be the official acknowledgement that the Distribution Agent has received and will review the claim.

D. Notice of Deficient Claims, Opportunity to Cure, and Notification of Claims Determination

50. The Distribution Agent shall provide to each Potentially Eligible Claimant whose claim is deficient, in whole or in part, a Claim Deficiency Notice setting forth the reason(s) why

the claim is deficient. The Claim Deficiency Notice shall be provided to such affected claimants within ninety (90) days after the Claims Bar Date.

51. The Distribution Agent shall have the authority, in its sole discretion, on a case-by-case basis, to extend the Claims Bar Date and waive technical claim deficiencies and to approve claims.

52. Any Potentially Eligible Claimant who has received a Claim Deficiency Notice shall have thirty (30) days from the date of the Claim Deficiency Notice to cure any deficiencies identified in the notice. The Potentially Eligible Claimant has the burden of notifying the Distribution Agent of his or her current address and other contact information.

53. On or before the Claims Determination Date, the Distribution Agent shall mail by United States First Class Mail a Determination Notice to each Potentially Eligible Claimant who has filed a Proof of Claim Form with the Distribution Agent, setting forth the Distribution Agent's conclusions concerning such claim. In the event a claim is denied, in whole or in part, the Distribution Agent will state the reason for such denial.

54. All determinations made by the Distribution Agent in accordance with this Distribution Plan shall be final and not subject to appeal.

E. Payee List

55. The Distribution Agent shall distribute the Net Fair Fund to all Eligible Claimants only after all timely submitted Proof of Claim Forms have been processed and all Potentially Eligible Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to cure pursuant to the procedures set forth above.

56. Within sixty (60) days following the Claims Determination Date, the Distribution Agent shall prepare a final payee list that includes the names of Eligible Claimants and the

Eligible Loss Amount of each Eligible Claimant. The Distribution Agent shall provide the final payee list to the Commission staff, and upon review, the Commission staff shall petition the Court to transfer funds in the CRIS account and any funds held at the Commission to the Distribution Agent for distribution pursuant to this Distribution Plan. In recommending a distributable amount to the Court, the Distribution Agent will retain a prudent reserve to pay any taxes, fees and expenses payable in connection with the Fair Fund, as well as a reasonable contingency for potential unforeseen issues. The final payee list shall, upon request, be made available to the Court under seal.

57. Following the Court's approval of the Commission's petition for the authority to distribute the funds from the Net Fair Fund to Eligible Claimants as provided for in this Distribution Plan, the Court may issue an order to the Clerk of the Court to transfer funds in the CRIS account representing the Net Fair Fund, less any expenses due the Court, to the account or accounts established by the Distribution Agent in accordance with paragraph 59 below. The Court may also issue an order to the Commission to transfer funds held at the Commission to the Distribution Agent for distribution to Eligible Claimants. The Distribution Agent shall commence the distributions to all Eligible Claimants as promptly as possible following the transfer of the funds.

F. Establishment of the Escrow Account

58. Upon receipt of the monies from the CRIS account in this matter and from the Commission, the Distribution Agent shall sign a receipt acknowledging the receipt of the funds with the Court and supply a copy of the receipt to counsel for the Commission in this matter within ten (10) days of receipt of the monies.

59. Prior to disbursement of the Net Fair Fund, the Distribution Agent will establish accounts described as follows at a U.S. commercial bank (“Bank”) not unacceptable to Commission staff. The Distribution Agent will establish an escrow account (the “Escrow Account”) pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by Commission staff. The Escrow Account will be established to receive the monies from the Court and Commission and the Net Fair Fund will be held in the Escrow Account until the time of distribution. The Distribution Agent will also establish a separate deposit account (*e.g.*, controlled distribution account, managed distribution account, linked checking and investment account) (the “Distribution Account”) for the purpose of funding the Distribution Payments to be distributed to Eligible Claimants. The accounts shall be in the name of and bearing the Employer Identification Number of the Fair Fund as custodian for the distributees of this Distribution Plan. The name of each account will be in the following form: “SEC v. AIMS Fair Fund, as custodian for the benefit of investors allocated a distribution, pursuant to the Distribution Plan in SEC v. AIMS Technologies, Inc. et al., Case No. 05-CV-4724 (S.D.N.Y.)”

60. During the term of the Escrow Agreement, if invested, the Escrow Account shall be invested and reinvested in short-term United States Treasury securities backed by the full faith and credit of the United States Government or an agency thereof, of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants, tax obligations, and/or fees and expenses that may accrue, including investment or reinvestment in a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit, or money market mutual funds registered under the Investment Company Act of 1940 that invest 100% of their assets in direct obligations of the United States Government.

61. In consultation with the staff of the Commission, the Distribution Agent will work with the Bank on an ongoing basis to determine an allocation of funds between the Escrow Account and Distribution Account that will preserve earnings, if possible, while providing maximum protection for the Fair Fund.

62. Upon transfer from the CRIS account, the assets of the Fair Fund will be held in the Escrow Account, separate from Bank assets, until the presentation of checks. All Fair Fund checks presented for payment or electronic transfers will be subject to “positive pay” controls before they are honored by the Bank. The “positive pay” system provides protection against fraud arising from counterfeit or altered checks. The “positive pay” system will require, at a minimum, confirmation by the Bank that all checks presented for payment match the identifiers and amounts on the payee list prior to honoring such checks. In each instance, funds will be transferred from the Escrow Account to the Distribution Account upon the Bank’s confirmation that a presented check matches the relevant “positive pay” criteria.

63. The Distribution Agent shall provide copies of bank and/or investment statements on any accounts established by the Distribution Agent to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

G. Distribution

64. The Fair Fund will be distributed to Eligible Claimants as provided under the terms of the Distribution Plan. An Eligible Claimant’s Eligible Loss Amount, as determined in accordance with the Plan of Allocation contained in Exhibit 1 to this Distribution Plan, will be used to determine the amount of their Distribution Payment.

65. Should the total of the Eligible Loss Amounts of all Eligible Claimants exceed the Net Fair Fund, the Distribution Agent will distribute the Eligible Claimants’ *Pro Rata* Share of

the Net Fair Fund. All Fair Fund checks issued to Eligible Claimants by the Distribution Agent shall bear a stale date of one hundred and twenty (120) days. Accordingly, checks that are not negotiated within this period shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. Where an Eligible Claimant's check has not been negotiated within the one hundred and twenty (120) day period and has been voided by the Bank, that Eligible Claimant's claim shall be extinguished upon the occurrence of the stale date. All such funds will remain in the Fair Fund.

66. All Distribution Payments shall be preceded or accompanied by a communication, submitted to the staff of the Commission and the Tax Administrator for review and approval, that includes, as appropriate:

- a. A statement characterizing the distribution;
- b. A statement that the tax treatment of the distribution is the responsibility of each recipient and that the recipient should consult his or her tax advisor for advice regarding the tax treatment of the distribution;
- c. A statement that checks will be void after one hundred and twenty (120) days; and
- d. The name of a person or entity to contact, if the Eligible Claimant has any questions regarding the distribution.

67. Any such communication shall be submitted to the staff of the Commission and the Tax Administrator for review and approval. The Distribution Payment checks, on their face or the accompanying mailbag, shall clearly indicate that the money is being distributed from a Fair Fund established by the Commission to compensate investors for harm as a result of their investment in AIMS common stock.

68. Under no circumstances shall the Distribution Agent, its employees or its agents incur any liability to any Person in connection with a distribution made in accordance with the Eligible Claimants and their Eligible Loss Amount as approved by the Court, and all Persons are enjoined from taking any action in contravention of this provision. Upon receipt and acceptance by an Eligible Claimant of a distribution from the Fair Fund, such Eligible Claimant shall be deemed to have released all claims that such Eligible Claimant may have against the Distribution Agent, its employees, agents, and attorneys in connection with the Distribution Plan and the administration of the Fair Fund, and shall be deemed enjoined from prosecuting or asserting any such claims.

69. The submission of the Proof of Claim Form and the receipt and acceptance of a distribution by an Eligible Claimant shall not affect an Eligible Claimant's rights and claims against any party (other than the Distribution Agent), including, but not limited to, past or present directors, officers, employees, promoters, agents, advisers, Affiliates, nominees, assigns, creditors, or controlled entities.

H. Uncashed and Reissued Checks

70. The Distribution Agent shall reissue checks to Eligible Claimants, upon the receipt of a valid, written request from the Eligible Claimant. Such reissued checks will be void after sixty (60) days from the issuance and in no event will a check be reissued after one hundred and twenty (120) days post-distribution.

71. The Distribution Agent will perform an advanced address search for those checks that are returned as undeliverable, to the extent such search is feasible, and will reissue such checks so long as the new address is received within one hundred and twenty (120) days post-distribution. Furthermore, the Distribution Agent will take additional steps, as necessary, to

follow up on the status of uncashed checks at the request of Commission staff and will reissue such checks if necessary, within one hundred and twenty (120) days post-distribution. However, the Eligible Claimant has the burden of providing the Distribution Agent with any changes to his or her mailing address.

I. Post Distribution

72. One hundred and eighty (180) days following the distribution, all approved final fees and expenses shall be paid, all outstanding checks shall be voided, and any remaining funds shall be paid to the Commission for transfer to the United States Treasury upon receipt of written instructions by the Distribution Agent.

73. The Distribution Agent will destroy all documents, including documents in any media, six (6) years after the transfer of any remaining funds to the Commission. In addition, the Distribution Agent will shut down the website established specifically for the administration of the Fair Fund six (6) months after the transfer of any remaining funds to the Commission.

74. No further claims shall be made against the Fair Fund beyond the amount allocated to Eligible Claimants. Once the funds, if any, are returned to the Commission, no additional payments to investors shall be made whatsoever.

75. Upon final distribution of the funds, the Distribution Agent shall make arrangement for the final payment of taxes and tax-related fees. The Distribution Agent shall also provide to Commission staff, who shall in turn file with the Court, a final accounting to the Court in an SEC standard accounting format provided by the staff of the Commission. The final report shall include, among other things, a final accounting of all monies received, earned, spent, and distributed in connection with the administration of the Distribution Plan and shall be compiled in coordination with the Tax Administrator.

J. Responsibilities of the Tax Administrator

76. The Net Fair Fund is a “Qualified Settlement Fund” within the meaning of the regulations issued under Section 468B(g) of the Internal Revenue Code of 1986, as amended. The Tax Administrator is the administrator of such Qualified Settlement Fund, for purposes of Treas. Reg. § 1.468B-2(k)(3)(I), and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

- a. Obtaining a taxpayer identification number;
- b. Timely requests for funds necessary for the timely paying of all applicable taxes, the timely payment of taxes for which the Tax Administrator has received funds, and the filing of applicable tax returns; and
- c. Fulfilling any information reporting or withholding requirements required for distributions from the Net Fair Fund.

77. The Distribution Agent shall cooperate with the Tax Administrator in providing any information necessary to ensure income tax compliance.

K. Payment of Costs, Fees, and Taxes, and Filing Report and Accountings

78. All taxes and the reasonable fees and expenses of the Tax Administrator, Distribution Agent, third-party professionals and service providers incurred in the performance of its duties, will be paid from the Fair Fund on a quarterly basis, subject to the review and approval of the Court.

79. The Distribution Agent shall provide Commission staff, who shall file with the Court, a progress report, pursuant to and in a format to be provided by Commission staff, within forty-five (45) days of Court approval of this Distribution Plan, and shall provide additional

reports within twenty (20) days after the end of every quarter thereafter, and a final report when its duties are completed.

80. The progress reports shall inform the Court and the staff of the Commission of the activities and status of the Fair Fund during the reporting period, and shall:

- a. Specify, at a minimum, the location of the account(s) comprising the Fair Fund;
and
- b. Include, among other things, an interim accounting of all monies in the Fair Fund as of the most recent month-end, including the value of those accounts, all monies earned or received into these accounts, monies expended from the Fair Fund to satisfy any fees, costs, taxes and other expenses incurred in the implementation of this Distribution Plan, and funds distributed to Eligible Claimants under this Distribution Plan.

81. The final report shall include, among other things, a final accounting of all monies received, earned, spent, and distributed in connection with the administration of the Distribution Plan, and a request for approval of any unpaid taxes.

82. The Clerk of the Court shall provide the Distribution Agent with any and all account information relating to funds held in the CRIS account that may be required for the progress and final reports, including providing copies of any account statements that the Distribution Agent may request.

83. The Fair Fund shall be eligible for termination, and the Distribution Agent eligible for discharge, after all of the following have occurred: (a) the final accounting has been submitted and approved by the Court, (b) all taxes and fees have been paid, and (c) all remaining funds have been paid to the Commission for transfer to the United States Treasury.

L. Other Rights and Powers

84. To carry out the purposes of this Distribution Plan, the Distribution Agent is authorized to make non-material changes to the Distribution Plan if agreed upon by the staff of the Commission. Material changes to this Distribution Plan may only be implemented by the Distribution Agent after consultation with, and consent of, Commission staff and approval by the Court.

85. The Distribution Agent may extend any procedural deadline contained in this Distribution Plan for good cause shown, if agreed upon by the Commission staff.

86. The Distribution Agent is entitled to rely on all outstanding rules of law and Court orders, and shall not be liable to anyone for any action taken or omitted by it in connection with this Distribution Plan, except upon a finding by this Court of misfeasance, gross negligence, or reckless disregard of duty under this Distribution Plan.

87. The Distribution Agent is authorized to enter into agreements with financial institutions (“Institutions”) as may be appropriate or necessary in the administration of the Fair Fund, provided that such Institutions are not excluded pursuant to other provisions of this Distribution Plan. In connection with such agreements, the Institutions shall be deemed to be agents of the Distribution Agent under this Distribution Plan.

88. All proceedings with respect to the administration, processing, and determination of claims and the determination of all related controversies, shall be subject to the exclusive jurisdiction of this Court. Any dispute which an investor is unable to resolve with the Distribution Agent, or any objection an investor may have to this Distribution Plan, may be raised with the Court as an objection.

89. The Court reserves the right to amend this Distribution Plan from time to time, and retains jurisdiction over this matter for this purpose and for any and all other matters that may arise under or relate to this Distribution Plan.

Exhibit 1
Plan of Allocation

1. For shares of AIMS common stock that were:
 - (a) Purchased between July 1, 2004 and December 14, 2004, inclusive ("Recovery Period"), and sold on or before December 14, 2004, the Recognized Loss (or Gain) per Share¹ is equal to the sale price per share less the purchase price per share;
 - (b) Purchased during the Recovery Period and held after December 14, 2004 the Recognized Loss (or Gain) per Share is the negative of the purchase price per share; and
 - (c) Purchased after December 14, 2004, the Recognized Loss (or Gain) per Share is zero.
 - (d) For example, a share purchased on July 2, 2004 at \$2.00 and sold on July 14, 2004 at \$1.40 has a Recognized Loss (or Gain) per Share of - \$0.60. If instead, the share was sold on July 15, 2004 at \$2.10, the Recognized Loss (or Gain) per Share is \$0.10. If instead, the share was sold or held after December 14, 2004 the Recognized Loss (or Gain) per Share is - \$2.00.
2. Specifically, for each investor who held shares of AIMS common stock as of the beginning of the Recovery Period or made multiple purchases or sales during the Recovery Period, the first-in, first-out ("FIFO") method will be applied to such holdings, purchases and sales. Under the FIFO method, sales of shares during the Recovery Period will be matched, in chronological order, first against shares held at the beginning of the Recovery Period. The remaining sales of shares during the

¹ Capitalized terms are as defined in the Plan of Distribution.

Recovery Period will then be matched, in chronological order, against shares purchased during the Recovery Period. The date of acquisition or sale is the "trade" date as distinguished from the "settlement" date. Option contracts will not be valued.

3. A claimant's Eligible Loss Amount shall be determined by summing the claimant's Recognized Loss (or Gain) per Share across all shares purchased during the Recovery Period. If the sum is negative, reflecting an overall loss, the claimant will have an Eligible Loss Amount. If the sum is positive, reflecting an overall gain, the claimant's Eligible Loss Amount will be zero. An Eligible Claimant will be eligible to receive a distribution not to exceed the Eligible Loss Amount.
4. If the sum of Eligible Loss Amounts across all Eligible Claimants exceeds the Net Fair Fund, payments to Eligible Claimants will reflect their *Pro Rata* shares of the Net Fair Fund, where the *pro rata* share is the claimant's Eligible Loss Amount divided by the sum of Eligible Loss Amounts across all Eligible Claimants.