

**ALEX BROWN MANAGEMENT SERVICES, INC., et al.**

**Plaintiffs**

v.

**RUPERT VILLIERS, et al.**

**Defendants**

\* **IN THE**  
\* **CIRCUIT COURT**  
\* **FOR**  
\* **BALTIMORE CITY**  
\* **CASE NO.: 24-C-08-003597**

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\* \* \* \* \*

**ORDER**

Upon consideration of Plaintiffs’ Motion for Partial Summary Judgment with Respect to Defense Costs Incurred on Account of the Exchange Fund Claims (Pleading No. 15), Defendants’ Opposition thereto, Plaintiffs’ Reply, and oral argument, it is this 1<sup>st</sup> day of June 2009, by the Circuit Court for Baltimore City, hereby **ORDERED** that:

1. Plaintiffs’ Motion for Partial Summary Judgment with Respect to Defense Costs Incurred on Account of the Exchange Fund Claims (Pleading No. 15) be, and the same is, hereby **GRANTED IN PART** and **DENIED IN PART** for the reasons stated in the Court’s Memorandum Opinion dated June 1, 2009; and it is hereby **DECLARED** that:

2. Exclusion (b) of the Policy does not bar coverage for actions filed against an Organization for Wrongful Acts that occurred prior to September 1, 1997; and it is further **DECLARED** that:

3. Endorsement Number 5 to the Policy does not afford coverage for acts committed, attempted, or allegedly committed or attempted after June 4, 1999; and it is further **DECLARED** that:

4. The Policy imposes a duty upon Defendants to contemporaneously pay all Defense Costs as incurred on account of the Exchange Fund Claims, subject to recoupment of factually determined uncovered expenses; and it is further **DECLARED** that:

5. Defendants are obligated to contemporaneously pay all Defense Costs as incurred on account of the case of *White v. ABMS*, No. GICD 842750 (Cal. Super. Ct.); and it is further **DECLARED** that:

6. Defendants are not obligated to pay Defense Costs incurred on account of the cases of (1) *DeVetter (a/k/a Compton) v. ABMS*, No. 24-C-03-007514 (Md. Cir. Ct.); (2) *Cabaniss v. DBSI*, No. 02-cvs-6822 (N.C. Super. Ct.); (3) *Switzer & Sons Family Partnership, L.P. v. DBSI*, No. 03-03347 (NASD Arbitration); (4) *Talbott and Patterson v. ABMS*, No. 21810 (Tex. Dist. Ct.); and (5) *Albert v. ABMS*, No. 04C-05-250 PLA (Del. Super. Ct.), *Baker v. ABMS*, No. 04C-05-251 PLA (Del. Super. Ct.), which have all been resolved, until such time as there has been an allocation between covered and uncovered expenses; and it is **ORDERED** that:

7. The Clerk of the Court is directed to forward a copy of this Order to all counsel of record in this proceeding.

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Stuart R. Berger  
Judge, Circuit Court for Baltimore City