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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JAMES HILL, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

SILVER LAKE GROUP, L.L.C., BC
PARTNERS LLP, RAYMOND SVIDER, and
JUSTIN BATEMAN,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff James Hill (“Plaintiff”), individually and on behalf of all other persons similarly
2 situated, by his undersigned attorneys for his Class Action Complaint against the above-named
3 Defendants (defined below) alleges the following upon personal knowledge, as to himself and his
4 own acts, and upon information and belief, as to all other matters, based on, *inter alia*, the
5 investigation conducted by and through his attorneys, which included, among other things, media
6 reports, filings with the U.S. Securities and Exchange Commission (“SEC”), trading records, press
7 releases, and other publicly available information.

8 NATURE OF THE ACTION

9 1. This is a securities class action arising from the unlawful use of material non-public
10 information by BC Partners LLP (“BC Partners”) and Silver Lake Group, L.L.C. (together, with
11 its affiliates, including, but not limited to, SLP III Investment Holding S.à.r.l., Silver Lake Partners
12 III, L.P., Silver Lake Technology Investors III, L.P., Silver Lake Technology Associates III, L.P.,
13 and SLTA III (GP), L.L.C., “Silver Lake”), who collectively gained *over \$185 million* in profits
14 and losses avoided by selling shares of Intelsat S.A. (“Intelsat” or the “Company”), a Luxembourg-
15 based satellite operator that provides television and radio communications, to Plaintiff and other
16 unsuspecting and unwitting public shareholders.

17 2. This action is brought on behalf of all those investors who purchased or otherwise
18 acquired Intelsat shares contemporaneously with Defendants’ unlawful trades from November 5,
19 2019 through and including November 18, 2019 (the “Class Period”), pursuant to §§20A, 10(b),
20 and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§78t-1, 78j(b),
21 and 78t(a).

22 3. Since at least 2017, the Federal Communications Commission (“FCC”) has
23 explored ways to potentially free up various wavebands for future “5G” use. Of particular interest
24 was the “C-Band,” a range of mid-level bands that Intelsat and a few other satellite operators had
25 rights to use in the United States.

26 4. Intelsat has since proposed numerous plans to clear hundreds of megahertz
27 (“MHz”) for 5G use in exchange for money. At first, Intelsat submitted a proposal with Intel
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1 Corporation (“Intel”) calling for satellite operators to identify *geographic areas* across the country
2 where they could clear the C-Band for terrestrial use. Then, Intelsat and SES, a fellow FSS
3 (defined below) operator in C-Band, announced their agreement to open a portion of C-Band
4 spectrum to allow wireless operators to access 100 MHz of *nationwide* C-Band spectrum across
5 the United States.

6 5. Eventually, Intelsat joined the C-Band Alliance (“CBA”), a consortium of other
7 FSS providers that utilize the C-Band in the United States (SES, Eutelsat, and Telesat), to propose
8 another plan for bringing the spectrum into use within 18-36 months from a FCC order. Central
9 terms of the CBA’s proposal included undertaking a private sale process for the spectrum,
10 requiring the CBA to cover the costs of both adding the necessary additional satellite capacity and
11 repointing antennas where needed for both senders and receivers, earmarking all proceeds of the
12 private sale to the members of the CBA, and freeing up 200 MHz of spectrum.

13 6. Analysts viewed the CBA proposal as “the most workable and timely solution,”
14 especially after the CBA amended its proposal to clear up an additional 100 MHz of C-Band
15 spectrum within 36 months from a CBA-led auction.

16 7. Then, on November 18, 2019, the FCC rejected Intelsat’s proposal. Further, FCC
17 Chairman Ajit Pai (“Chairman Pai”) appeared to foreclose any future prospects, conveying his
18 support for a public rather than private auction of the C-Band spectrum. Posting on his Twitter
19 account, Chairman Pai announced, “I’m confident they’ll quickly conduct a public auction that
20 will give everyone a fair chance to compete for this #5G spectrum, while preserving availability
21 of the upper 200 MHz of the band for continued delivery of programming.”

22 8. In response, the CBA issued a statement claiming that Chairman Pai’s proposal
23 failed to address “the critical involvement of the incumbent satellite operators in executing the
24 complex task of reconfiguring and transitioning their networks.” Still, the CBA committed to
25 “continue to work cooperatively with the FCC to develop an effective alternative plan.”
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1 9. The market’s reaction to this news was quick and harsh. Intelsat’s stock fell over
2 40% on extremely heavy trading, closing down from \$13.41 per share on November 15, 2019, to
3 \$8.03 per share on November 18, the next trading day.

4 10. As was later revealed, however, certain insider shareholders were able to sell a large
5 chunk of Intelsat shares just before this massive stock plunge, capitalizing on their knowledge that
6 Intelsat’s proposals were viewed negatively by the FCC. According to subsequent media reports,
7 including those published by *Bloomberg News* and the *New York Post*, for example, on November
8 5, 2019, Intelsat’s Chief Executive Officer (“CEO”), Stephen Spengler (“Spengler”), met with the
9 FCC’s senior counsel, Nicholas Degani (“Degani”), to discuss Intelsat’s plan to sell spectrum.
10 Following this meeting, and with the messages conveyed from the FCC in tow, Intelsat submitted
11 a *revised* proposal to the FCC on November 8, 2019, offering to give up more spectrum in
12 exchange for money. Notwithstanding Intelsat’s rush to submit a revised proposal, on November
13 6, 2019, before notice of the meeting was even posted on the FCC’s website (which occurred on
14 November 8, 2019), Defendants appear to have sold a 10 million block of Intelsat’s shares for
15 about \$24.60 per share.

16 11. It was then revealed that the “\$246 million block was shopped after markets closed
17 on Nov. 5” with “no advance warning that the sale was coming,” that pressure was placed on
18 “interested buyers” who “were told they had an hour or so to decide[,]” and that Defendants BC
19 Partners and Silver Lake appear to have been the sellers of those shares.

20 12. Both Defendants BC Partners and Silver Lake have long had significant control
21 over the Company. For example, Intelsat was first acquired by a consortium of BC Partners and
22 Silver Lake investors in February 2008. In December 2018, pursuant to a New Governance
23 Agreement, which remains in effect today, BC Partners was given the right to “nominate (i) two
24 directors for election to [Intelsat’s] board of directors” as long as it maintains at least 25% of the
25 Company’s outstanding common shares; and “(ii) one director for election to [Intelsat’s] board of
26 directors” as long as it maintains at least 5%, but less than 25%, of the Company’s outstanding
27 stock. Further, BC Partners was afforded “*Information Rights*,” which entitled it to receive “board
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1 meeting materials provided to each director.” Likewise, BC Partners was a party to a New
2 Shareholders Agreement, also executed in December 2018 and still in effect today, between
3 Intelsat and Silver Lake, which afforded Silver Lake the right to “receive certain information
4 required to meet internal and external reporting or other legal/compliance obligations.”

5 13. Defendants BC Partners and Silver Lake knew, or were reckless in not knowing,
6 that they were prohibited from trading based on this confidential market-moving information, but
7 traded anyway, disposing to Plaintiff and other members of the Class (defined below) their Intelsat
8 stock before this news was announced and the Company’s shares plummeted.

9 14. As a result, Plaintiff and the Class have been damaged from Defendants’ violations
10 of U.S. securities laws.

11 **JURISDICTION AND VENUE**

12 15. The claims asserted herein arise under §§10(b), 20A, and 20(a) of the Exchange
13 Act, 15 U.S.C. §§78j, 78t-1, and 78t(a), and this Court therefore has jurisdiction over the subject
14 matter of this action pursuant to 28 U.S.C. §§1331 and 1337 and §27 of the Exchange Act, 15
15 U.S.C. §78aa.

16 16. Venue is proper in this District pursuant to §27 of the Exchange Act, 15 U.S.C.
17 §78aa, and 28 U.S.C. §1391(b). Defendant Silver Lake is based in this District.

18 17. In connection with the challenged conduct, Defendants, directly or indirectly, used
19 the means and instrumentalities of interstate commerce, including, but not limited to, the United
20 States mails, interstate telephone communications, and the facilities of the national securities
21 markets.

22 **PARTIES**

23 **A. Plaintiff**

24 18. Plaintiff James Hill, as set forth in his accompanying certification, purchased
25 Intelsat common shares during the Class Period and was damaged when the Inside Information¹
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27 ¹ “Inside Information” includes, but is not limited to, the existence and contents of the
28 November 5, 2019 meeting between Intelsat and the FCC, which led to Intelsat submitting a
revised proposal to the FCC on November 8, 2019.

1 was publicly disclosed at the end of the Class Period and the price of Intelsat common shares
2 declined as a result. Plaintiff is a resident of Gardena, California.

3 **B. Defendants**

4 19. Defendant BC Partners is incorporated in England and Wales. Its registered office
5 is located at 40 Portman Square, London. BC Partners is authorized and regulated by the Financial
6 Conduct Authority (the “FCA”) in the United Kingdom. BC Partners had been a significant
7 shareholder of Intelsat since 2008. It has two representatives on Intelsat’s board of directors (the
8 “Board”), Defendants Raymond Svider and Justin Bateman. According to public filings, BC
9 Partners, which owned over 40.6 million Intelsat shares as of September 30, 2019, sold over
10 5.9 million shares in the period ended December 31, 2019.

11 20. Defendant Silver Lake Group, L.L.C. is a Delaware limited liability company with
12 its principal place of business in Menlo Park, California. Silver Lake Group, L.L.C. is an
13 investment management firm registered with the SEC, with approximately \$2.8 billion assets
14 under management. Silver Lake Group, L.L.C. is the sole member of Silver Lake Partners III, LP
15 and effectively controls a number of related entities, including: SLP III Investment Holding S.à.r.l.;
16 Silver Lake Partners III, L.P.; Silver Lake Technology Investors III, L.P.; Silver Lake Technology
17 Associates III, L.P.; and SLTA III (GP), L.L.C. (Delaware). These various entities controlled by
18 Silver Lake Group, L.L.C. are collectively referred to herein as “Silver Lake.” According to public
19 filings, Silver Lake, which owned over 9.8 million Intelsat shares as of September 30, 2019, sold
20 over 2.8 million shares in the period ended December 31, 2019, downgrading it to Intelsat’s fourth-
21 biggest shareholder from the second biggest. Prior to this disposition, Silver Lake’s 9.8 million
22 shares represented approximately 7% of the Company’s total shares outstanding.²

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25 ² On February 12, 2020, Silver Lake filed a Schedule 13G with the SEC, which disclosed its
26 reduced Intelsat position as of December 31, 2019. According to that filing, Silver Lake’s
27 ownership percentages “assume that there are 141,000,000 common shares outstanding, based on
28 the Issuer’s [*i.e.*, Intelsat’s] Report on Form 6-K filed with the Securities and Exchange
Commission on October 29, 2019.” Accordingly, Silver Lake’s percentage ownership before its
disposition, calculated above, is based on the same assumption that there were 141 million
common shares outstanding at the time.

1 27. For example, in connection with the Company’s IPO, Intelsat paid approximately
2 \$39.1 million to BC Partners and Silver Lake to terminate the monitoring fee agreement with those
3 parties under which they provided certain monitoring, advisory, and consulting services to Intelsat
4 and its subsidiaries. In addition, prior to its IPO, Intelsat entered into a governance agreement with
5 affiliates of BC Partners and Silver Lake that, subject to their percentage of ownership, granted
6 BC Partners the ability to nominate up to four directors to the Board, Defendants Svider and
7 Bateman, Denis Villafranca, and Simon Patterson (two of whom presently serve on the Board),
8 and Silver Lake the ability to nominate one director to the Board.

9 28. These agreements and rights to appoint members to the Board remained following
10 Intelsat’s June 6, 2018 secondary offering (“June SPO”). According to the registration statement
11 and prospectus filed with the SEC in connection with the June SPO, BC Partners and Silver Lake
12 were expected to hold in the aggregate approximately 58-59% of Intelsat’s common shares and
13 that “by virtue of their share ownership, [they] may be able to influence decisions to enter into any
14 corporate transaction or other matter that requires the approval of shareholders.”

15 29. The registration statement and prospectus issued in connection with the Company’s
16 November 30, 2018 secondary offering (“November SPO”) likewise noted BC Partners’ and Silver
17 Lake’s significant Intelsat ownership, stating:

18 Immediately following the consummation of this offering, BC Partners, Silver Lake
19 and their affiliates (the “Sponsors”) are expected to hold in the aggregate
20 ***approximately 49.3%*** of our common shares, assuming no exercise of the
21 underwriters’ option to purchase additional shares. By virtue of their share
22 ownership, the Sponsors may be ***able to influence decisions*** to enter into any
23 corporate transaction or other matter that requires the approval of shareholders.

24 [Emphasis added.]

25 30. Then, in December 2018, Intelsat entered into a New Governance Agreement with
26 BC Partners and a New Shareholders Agreement with BC Partners, Silver Lake, and other affiliates
27 – both of which remain in effect today. Pursuant to the terms of the New Governance Agreement,
28 BC Partners was afforded the right to nominate two directors to the Board if it owns at least 25%
of Intelsat’s outstanding common shares (otherwise one director provided it owns at least 5%) and
certain information rights, “***including the receipt of the board meeting materials provided to each***

1 *director.*” [Emphasis added.] Similarly, under the New Shareholders Agreement, Silver Lake,
2 provided it owned over 5% of Intelsat’s outstanding shares, was given the right to “*receive certain*
3 *information required to meet internal and external reporting or other legal/compliance*
4 *obligations.*” [Emphasis added.]

5 **B. Intelsat’s Efforts to Monetize Its Rights to the “Spectrum”**

6 31. In July 2017, the FCC published a Notice of Inquiry, initiating the process of
7 exploring the suitability of bands between 3.7 GHz and 24 GHz for wireless broadband use. Three
8 specific mid-range bands were identified for expanded flexible use: 3.7-4.2 GHz (the “C-Band”);
9 5.925-6.425 GHz; and 6.425-7.125 GHz.

10 32. In October 2017, Intelsat and Intel submitted a joint proposal related to the FCC’s
11 Notice of Inquiry, proposing a “market-based” approach to unlock spectrum in the 3700-4200
12 MHz C-Band with an expedited time to market of one to three years versus an FCC proceeding
13 that could take “up to a decade.” Under the proposal, current holders of the spectrum would be
14 able to reach commercial agreements directly with parties interested in utilizing the C-Band
15 spectrum.

16 33. Intelsat believed that careful coordination was necessary to protect incumbent users
17 – predominantly FSS satellite operators – from interference and impairment. In its initial proposal,
18 Intelsat and Intel suggested that satellite operators would identify geographic areas across the
19 country where they could clear the C-Band for terrestrial use. Clearing the C-Band could include
20 transitioning services/users to another portion of the C-Band or moving ground antennas.

21 34. Subsequently, Intelsat and SES – a fellow FSS operator in C-Band – announced an
22 agreement to open a portion of their C-Band spectrum to allow wireless operators to access 100
23 MHz of *nationwide* C-Band spectrum across the United States.

24 35. Analysts viewed this subsequent proposal as an excellent opportunity for “the FCC
25 to execute on a key White House initiative” to enable a quick path to 5G, which it viewed as being
26 a “key battle ground with foreign technology companies.” For example, RBC Capital Markets
27 concluded in its June 20, 2018 report that “there *is a very high likelihood* the FCC ruling include
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1 Intelsat’s proposal” and that “the politics leave Intelsat and SES *in prime position* to capitalise on
2 their C-band spectrum.” [Emphasis added and in original.] As a result, RBC Capital Markets
3 raised its Intelsat price target “from \$5 to \$30.”

4 36. In July 2018, the FCC’s 5G effort became even more focused with the issuance of
5 a Notice of Proposed Rulemaking (“NPRM”), which sought comments to help in developing a
6 specific strategy for making C-Band spectrum available for terrestrial wireless use. Specifically,
7 the FCC was looking for responses regarding how terrestrial use of the frequency should be
8 structured (*i.e.*, band plan, how much spectrum, etc.) and what method the FCC should use to
9 distribute the spectrum for terrestrial use. Moreover, the FCC asked for comments on making the
10 spectrum available through a Market-Based Mechanism under which the incumbent FSS providers
11 would make spectrum available, handle the sale of that spectrum, and then handle the clearance
12 process. In addition, the FCC discussed the potential for an Auction Mechanism, under which it
13 would auction off the spectrum itself under a number of possible structures.

14 37. Comments to the NPRM were received in October 2018 and replies to those
15 comments in mid-December 2018. In order to respond to the NPRM, and provide a united front
16 through the rulemaking process, the four FSS providers that utilize the C-Band in the United States
17 (Intelsat, SES, Eutelsat, and Telesat) banded together in October 2018 to create the CBA, allowing
18 the companies to provide a single response to the NPRM.

19 38. The CBA’s proposal focused on speed to market, emphasizing that it would allow
20 the spectrum to rapidly be brought into use with the transition completed between 18 and 36
21 months from a FCC Order, and called for satellite providers to use a private sale process for the
22 spectrum, keeping all the proceeds, but also covering the costs of both adding the necessary
23 additional satellite capacity and repointing antennas where needed for both senders and receivers.
24 It also said 200 MHz of spectrum would be freed up, explaining that no more would be possible if
25 service to current C-Band users continued.

26 39. Analysts again viewed the CBA proposal as “the most workable and timely
27 solution.” Nonetheless, the CBA continued to update its proposal in response to competing bids
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1 or negative comments. By October 2019, for example, the CBA offered to clear up to 300 MHz
2 of C-Band spectrum within 36 months from a CBA-led auction.

3 **C. The November 5, 2019 FCC Meeting**

4 40. On November 5, 2019, Intelsat's CEO, Spengler, met with the FCC's senior
5 counsel, Degani, to discuss Intelsat's plan to privately sell spectrum in a deal that had been
6 expected to result in a \$7.4 billion payout to the company (the "FCC Meeting").

7 41. On November 8, 2019, however, Intelsat, submitted a *revised* proposal to the FCC
8 offering to give up more spectrum in exchange for money. On November 18, the FCC rejected
9 Intelsat's proposal and announced that it would publicly auction the C-band that Intelsat had been
10 hoping to sell privately.

11 42. In a tweet posted to Twitter, FCC Chairman Pai conveyed his support for a public
12 rather than private auction of 280 MHz of C-Band spectrum, all but expressly rejecting Intelsat's
13 then-existing proposal, stating "I'm confident they'll quickly conduct a public auction that will
14 give everyone a fair chance to compete for this #5G spectrum, while preserving availability of the
15 upper 200 MHz of the band for continued delivery of programming." In other words, the FCC
16 was not going to allow Intelsat to sell licenses to carriers in a private sale.

17 43. In response, the CBA issued a statement claiming that Chairman Pai's proposal
18 failed to address "the critical involvement of the incumbent satellite operators in executing the
19 complex task of reconfiguring and transitioning their networks." Still, the CBA committed to
20 "continue to work cooperatively with the FCC to develop an effective alternative plan."

21 44. The market viewed the FCC's decision as a serious blow to Intelsat. On November
22 18, 2019, Intelsat's stock price fell 40% to close at \$8.03.

23 45. The next day, a day after the FCC's decision, on November 19, 2020, Intelsat's
24 share price fell again, closing at \$6.09, another one-day drop of over 24%.

25 **D. Defendants Profit from Their Insider Trading**

26 46. Based on public reporting and a review of Defendants' public filings, on November
27 6, 2019, Defendants sold a block of 10 million Intelsat shares for approximately \$24.60 per share.

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1 and BC Partners, members of their immediate families and their legal representatives, heirs,
2 successors or assigns, and any entity in which Defendants have or had a controlling interest.

3 53. The members of the Class are so numerous that joinder of all members is
4 impracticable. During the Class Period, Intelsat common stock was actively traded on the NYSE
5 and 141 million common shares were issued and outstanding. While the exact number of Class
6 members is unknown to Plaintiff at this time, and can be ascertained only through appropriate
7 discovery, Plaintiff believes that there are thousands of members in the proposed Class. Record
8 owners and other members of the Class may be identified from records maintained by Intelsat or
9 its transfer agent and may be notified of the pendency of this action by mail, using the form of
10 notice similar to that customarily used in securities class actions.

11 54. Plaintiff's claims are typical of the claims of the members of the Class as all
12 members of the Class are similarly affected by Defendants' wrongful conduct in violation of
13 federal law, as complained of herein.

14 55. Plaintiff will fairly and adequately protect the interests of the members of the Class
15 and has retained counsel competent and experienced in class and securities litigation. Plaintiff has
16 no interests antagonistic to or in conflict with those of the Class.

17 56. Common questions of law and fact exist, as to all members of the Class, and
18 predominate over any questions solely affecting individual members of the Class. Among the
19 questions of law and fact common to the Class are:

20 (a) whether the federal securities laws were violated by Defendants' acts as
21 alleged herein;

22 (b) whether Intelsat supplied the Inside Information to Defendants BC Partners
23 and Silver Lake and whether Defendants BC Partners and Silver Lake traded Intelsat shares
24 while in possession of material non-public information concerning Intelsat;

25 (c) whether Defendants BC Partners and Silver Lake exercised control over
26 Intelsat within the meaning of §20(a) of the Exchange Act, 15 U.S.C. §78t(a), and whether
27 such Defendants are entitled to assert the defense of good faith;

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- 1 (d) whether the Inside Information was material; and
- 2 (e) the amount by which Plaintiff was damaged and Defendants profited and
- 3 avoided losses as a result of the securities law violations alleged herein.

4 57. A class action is superior to all other available methods for the fair and efficient
5 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the
6 damages suffered by individual Class members may be relatively small, the expense and burden
7 of individual litigation make it impossible for members of the Class to individually redress the
8 wrongs done to them. There will be no difficulty in the management of this action as a class action.

9 58. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-
10 on-the-market doctrine in that:

- 11 (a) Defendants failed to disclose material non-public information during the
- 12 Class Period;
- 13 (b) the omissions were material;
- 14 (c) Intelsat securities traded in an efficient market;
- 15 (d) Intelsat shares were liquid and traded with moderate to heavy volume during
- 16 the Class Period;
- 17 (e) Intelsat traded on the NYSE; and
- 18 (f) Plaintiff and other members of the Class purchased and/or sold the
- 19 applicable Intelsat securities between the time Defendants failed to disclose material facts
- 20 and traded thereon and the time the true facts were disclosed, without knowledge of the
- 21 omitted facts.

22 59. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a
23 presumption of reliance upon the integrity of the market.

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CLAIMS FOR RELIEF

**FIRST CLAIM
Violation of §10(b) of the Exchange Act and
Rule 10b-5 Promulgated Thereunder
(Against All Defendants)**

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60. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

61. The information provided to Silver Lake and BC Partners about the FCC Meeting was material and non-public. In addition, the information was, in each case, considered confidential by Intelsat, which was the source of the information, and Intelsat had policies protecting confidential information.

62. Silver Lake and BC Partners obtained the material non-public information pursuant to their agreements with Intelsat and as a result of Svider's and Bateman's positions at Intelsat.

63. Silver Lake and BC Partners knew, recklessly disregarded, or should have known that they owed a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, to Intelsat to keep the information confidential.

64. Nevertheless, while in possession of material, non-public adverse information, Defendants sold approximately 10 million shares of Intelsat.

65. By virtue of the foregoing, all Defendants, and each of them, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce, or of the mails, or a facility of a national securities exchange, directly or indirectly:

(a) employed devices, schemes, or artifices to defraud;

(b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) engaged in acts, practices, or courses of business that operated, or would have operated, as a fraud or deceit upon persons.

1 73. Defendants thereby violated §10(b) of the Exchange Act, 15 U.S.C. §78j(b), and
2 SEC Rule 10b-5, 17 C.F.R. §240.10b-5.

3 74. Plaintiff contemporaneously purchased and/or sold securities of the same class as
4 those sold by Defendants BC Partners and Silver Lake.

5 75. By virtue of the foregoing, Defendants are jointly and severally liable to Plaintiff
6 and the Class for their insider sales pursuant to §20A of the Exchange Act, 15 U.S.C. §78t-1.

7 **THIRD CLAIM**
8 **Violation of §20(a) of the Exchange Act**
9 **(Against All Defendants)**

10 76. Plaintiff repeats and realleges each and every allegation contained above as if fully
11 set forth herein.

12 77. This Claim is brought against Defendants for control person liability under §20(a)
13 of the Exchange Act.

14 78. Pursuant to §20(a) of the Exchange Act:

15 Every person who, directly or indirectly, controls any person liable under any
16 provision of this chapter or of any rule or regulation thereunder shall also be liable
17 jointly and severally with and to the same extent as such controlled person to any
18 person to whom such controlled person is liable . . . , unless the controlling person
19 acted in good faith and did not directly or indirectly induce the act or acts
20 constituting the violation or cause of action.

21 79. The Defendants named in this count did not act in good faith and directly and/or
22 indirectly induced the wrongful acts complained of herein by:

- 23 (a) permitting the insider sales to occur with actual knowledge or reckless
24 disregard for whether the entities trading possessed material non-public information; or
25 (b) failing to adequately supervise their own action in connection with the
26 acquisition of the Inside Information and trading thereon.

27 80. By virtue of the foregoing, the Defendants named in this count are jointly and
28 severally liable, pursuant to §20(a) of the Exchange Act, to Plaintiff and the Class with the
Defendants liable under the First Claim above.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- A. Determining that this action may be maintained as a class action under Fed. R. Civ. P. 23 and certifying Plaintiff as Class Representative;
- B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;
- C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees, and other costs; and
- D. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands trial by jury of all issues that may be so tried.

DATED: April 7, 2020