

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

| | | |
|-------------------------------------|---|---------------------|
| SALIF COULIBALY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Case No. _____ |
| v. |) | |
| |) | JURY TRIAL DEMANDED |
| ALASKA COMMUNICATIONS SYSTEMS |) | |
| GROUP, INC., DAVID W. KARP, PETER |) | |
| D. AQUINO, WAYNE BARR, JR., BILL |) | |
| BISHOP, BENJAMIN C. DUSTER, IV, and |) | |
| SHELLY LOMBARD, |) | |
| |) | |
| Defendants. |) | |

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from a proposed transaction announced on January 4, 2021 (the “Proposed Transaction”), pursuant to which Alaska Communications Systems Group, Inc. (“Alaska Communications” or the “Company”) will be acquired by affiliates of ATN International, Inc.

2. On December 31, 2020, Alaska Communications’ Board of Directors (the “Board” or “Individual Defendants”) caused the Company to enter into an agreement and plan of merger (the “Merger Agreement”) with Project 8 Buyer, LLC (“Parent”) and Project 8 MergerSub, Inc. (“Merger Sub,” and together with Parent, “Project 8”). Pursuant to the terms of the Merger Agreement, Alaska Communications’ stockholders will receive \$3.40 in cash for each share of Alaska Communications common stock they own.

3. On January 25, 2021, defendants filed a proxy statement (the “Proxy Statement”) with the United States Securities and Exchange Commission (the “SEC”) in connection with the Proposed Transaction.

4. The Proxy Statement omits material information with respect to the Proposed Transaction, which renders the Proxy Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Proxy Statement.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(a) and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391(b) because a portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Alaska Communications common stock.

9. Defendant Alaska Communications is a Delaware corporation and a party to the Merger Agreement. Alaska Communications’ common stock is traded on the NASDAQ under the ticker symbol “ALSK.”

10. Defendant David W. Karp is Chairman of the Board of the Company.
11. Defendant Peter D. Aquino is a director of the Company.
12. Defendant Wayne Barr, Jr. is a director of the Company.
13. Defendant Bill Bishop is President, Chief Executive Officer, and a director of the Company.
14. Defendant Benjamin C. Duster, IV is a director of the Company.
15. Defendant Shelly Lombard is a director of the Company.
16. The defendants identified in paragraphs 10 through 15 are collectively referred to herein as the “Individual Defendants.”

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

17. Alaska Communications is the leading provider of advanced broadband and managed IT services for businesses and consumers in Alaska.
18. The Company operates a highly reliable, advanced statewide data network with the latest technology and the most diverse undersea fiber optic system connecting Alaska to the contiguous U.S.
19. On December 31, 2020, Alaska Communications’ Board caused the Company to enter into the Merger Agreement.
20. Pursuant to the terms of the Merger Agreement, Alaska Communications’ stockholders will receive \$3.40 in cash for each share of Alaska Communications common stock they own.
21. According to the press release announcing the Proposed Transaction:

Alaska Communications Systems Group, Inc. (NASDAQ: ALSK) (“Alaska Communications” or the “Company”) announced today that on December 31, 2020

it entered into a definitive agreement pursuant to which the Company will be acquired by a newly formed entity owned by ATN International, Inc. (NASDAQ: ATNI) ("ATN") and Freedom 3 Capital, LLC ("FC3") in an all cash transaction valued at approximately \$332 million, including net debt. The merger will result in Alaska Communications becoming a consolidated, majority owned subsidiary of ATN and is expected to close in the second half of 2021. Alaska Communications' prior agreement to be acquired by an affiliate of Macquarie Capital ("Macquarie") and GCM Grosvenor ("GCM"), through its Labor Impact Fund, L.P., has been terminated.

Under the terms of the agreement, an affiliate of ATN will acquire all the outstanding shares of Alaska Communications common stock for \$3.40 per share in cash. This represents a premium of approximately 78% over the closing per share price of \$1.91 on November 2, 2020, the last trading day prior to the date when Alaska Communications' original merger agreement with Macquarie and GCM was executed, a 70% premium to the 30-day volume weighted average price up to and including November 2, 2020 and a 4% premium to Macquarie and GCM's prior binding agreement to acquire the Company.

The merger agreement follows the determination by the Alaska Communications Board of Directors, after consultation with its legal and financial advisors, that the ATN proposal constituted a "Superior Proposal" as defined in Alaska Communications' previously announced merger agreement with Macquarie and GCM. Consistent with that determination and following the expiration of the negotiation period with Macquarie and GCM required under such agreement, Alaska Communications terminated that agreement. In connection with the termination, Alaska Communications paid Macquarie and GCM a \$6.8 million break-up fee. . . .

The merger is subject to the approval of Alaska Communications' stockholders, regulatory approvals and other customary closing conditions. The merger has fully committed debt and equity financing and is not subject to any condition with regard to financing. Alaska Communications' Board of Directors has unanimously approved the agreement and recommends that Alaska Communications' stockholders approve the proposed merger and merger agreement. Alaska Communications expects to hold a special meeting of stockholders to consider and vote on the proposed merger and merger agreement as soon as practicable after the mailing of the proxy statement to its stockholders.

TAR Holdings, LLC, which owns approximately 8.8% of the outstanding shares of Alaska Communications common stock, has entered into a voting agreement with ATN agreeing, among other things, to vote in favor of the merger. The voting agreement will automatically terminate upon the earliest of (a) the vote of stockholders on the merger, (b) any termination of the Merger Agreement, (c) any change in recommendation by the Board of Alaska Communications and (d) 14 months after the signing of the Merger Agreement. Under the voting agreement,

TAR Holdings, LLC may sell shares of the Company's stock in the open market through a broker dealer.

Advisors

Bank Street Group, LLC is serving as financial advisor and Morrison & Foerster LLP is serving as legal advisor to ATN in connection with the transaction.

B. Riley Securities, Inc. is serving as financial advisor and Sidley Austin LLP is serving as legal advisor to Alaska Communications in connection with the transaction.

The Proxy Statement Omits Material Information, Rendering It False and Misleading

22. Defendants filed the Proxy Statement with the SEC in connection with the Proposed Transaction.

23. As set forth below, the Proxy Statement omits material information.

24. First, the Proxy Statement omits material information regarding the Company's financial projections.

25. The Proxy Statement fails to disclose: (i) all line items used to calculate adjusted EBITDA and adjusted free cash flow; (ii) projected net income; (iii) the projections presented to the Board at the March 25, 2020 Board meeting; and (iv) a reconciliation of all non-GAAP to GAAP metrics.

26. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion.

27. Second, the Proxy Statement omits material information regarding the analyses performed by the Company's financial advisor, B. Riley Securities, Inc. ("B. Riley").

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