

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISH NETWORK  
DERIVATIVE LITIGATION.

SUPREME COURT No. 69012

JACKSONVILLE POLICE AND FIRE  
PENSION FUND,

SUPREME COURT No. 69729

Appellant,

vs.

GEORGE R. BROKAW; CHARLES M.  
LILLIS; TOM A. ORTOLF; CHARLES  
W. ERGEN; CANTEY M. ERGEN;  
JAMES DEFRANCO; DAVID K.  
MOSKOWITZ; CARL E. VOGEL;  
THOMAS A. CULLEN; KYLE J. KISER;  
AND R. STANTON DODGE,

Respondent.

JOINT APPENDIX  
VOLUME 30 of 44

FILED

AUG 17 2016

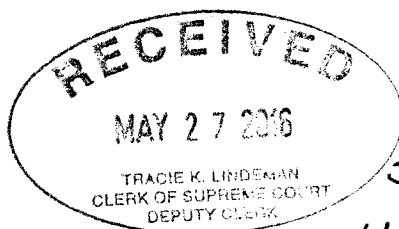
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

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AMANDA C. YEN (NSBN 9726)  
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*Attorneys for Appellant Jacksonville Police and Fire Pension Fund*



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JA007346-47, 7356-57, 7468  
unsealed portions per order 8-17-16

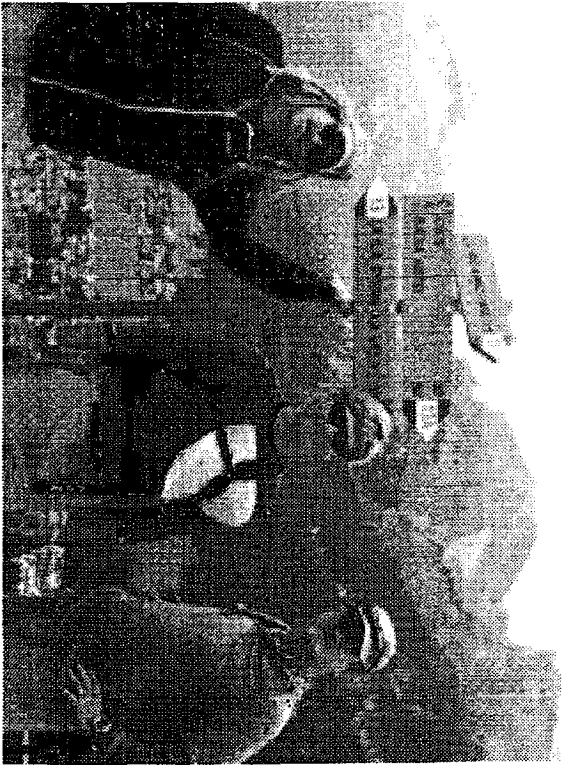


Message

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**From:** Tom Ortolf [tom.ortolf@gmail.com]  
**Sent:** 7/28/2011 4:33:28 PM  
**To:** Candy Ergen [Candy.Ergen@dishnetwork.com]  
**Subject:** Some if the crew  
**Attachments:** photo.JPG; ATT02966.txt







# EXHIBIT 19

# EXHIBIT 19



**From:** Tom <ortolftom@aol.com>  
**Sent:** Wednesday, February 02, 2011 1:48 PM  
**To:** Ergen, Charlie  
**Subject:** Re: game

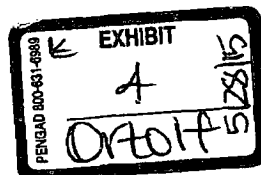
I love you man!! See you in Dallas.

tom

Sent from my iPhone

On Feb 2, 2011, at 11:15 AM, "Ergen, Charlie" <[Charlie.Ergen@dishnetwork.com](mailto:Charlie.Ergen@dishnetwork.com)> wrote:

> T,  
>  
> We have two tickets for you. not sure when I get them but probably Friday night or Saturday.  
> We don't need you apartment so.  
>  
> See you in dallas,  
>  
> C  
>  
> From: Ortolfom [mailto:[ortolftom@aol.com](mailto:ortolftom@aol.com)]  
> Sent: Tuesday, February 01, 2011 5:06 PM  
> To: Ergen, Charlie  
> Subject: Re: game  
>  
> Chas,  
> To clarify...I was planning to return to Denver on Friday so the apt would be available for you if you need it. But if you're coming for the game and don't need the apt and have 2 additional tickets...I'm IN !! and Laurie will get to Dallas to go to the game too.  
>  
> tom  
>  
>  
>  
> -----Original Message-----  
> From: Ergen, Charlie <[Charlie.Ergen@dishnetwork.com](mailto:Charlie.Ergen@dishnetwork.com)>  
> To: 'Tom' <[ortolftom@aol.com](mailto:ortolftom@aol.com)>  
> Sent: Tue, Feb 1, 2011 2:36 pm  
> Subject: game  
>  
> T,  
>  
> Will you be in dallas for superbowl..are you going to the game...I might be able to get 2 more tickets?





From: George Brokaw [GB@brokawmail.com]  
Sent: Friday, September 20, 2013 9:33 AM  
To: Ergen, Candy  
Subject: RE: I will get a name today

If you think its nice for Chase to be around all the kids, etc. we can easily handle it.

From: Ergen, Candy [Candy.Ergen@dish.com]  
Sent: Friday, September 20, 2013 10:27 AM  
To: George Brokaw  
Subject: Re: I will get a name today

Absolutely and we don't care about floor or couch too

Sent from my iPhone

On Sep 20, 2013, at 7:05 AM, "George Brokaw" <GB@brokawmail.com> wrote:

> Can chase and luna be in the same room

>

> Sent from my iPhone

>

>> On Sep 20, 2013, at 9:03 AM, "Ergen, Candy" <Candy.Ergen@dish.com> wrote:

>>

>> Do you have room for Chase on an aerobed Sunday night? Or a couch? What about Luna? We can always go to a hotel if it will be too crowded. Can't wait to see you guys!

>>

>> Sent from my iPhone

>>

>>> On Sep 20, 2013, at 6:41 AM, "George Brokaw" <GB@brokawmail.com> wrote:

>>>

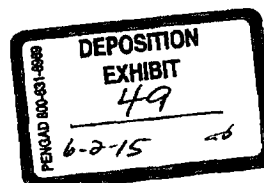
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>>>

>>> Sent from my iPhone

>>>

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[dleonard@mcdonaldcarano.com](mailto:dleonard@mcdonaldcarano.com)

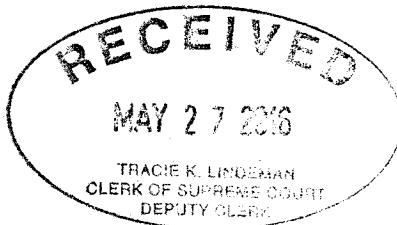
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*vice*)  
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[bboschkee@nevadafirm.com](mailto:bboschkee@nevadafirm.com)  
[wmiller@nevadafirm.com](mailto:wmiller@nevadafirm.com)

JA 7535-43

unsealed portion per order 8-17-16

Attorneys for Appellant Jacksonville Police and Fire Pension Fund

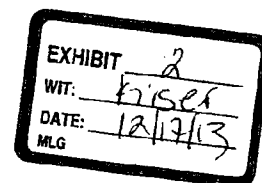


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**From:** MER1-4A-EXEC5@dishnetwork.com  
**Sent:** Wednesday, November 30, 2011 11:12 AM  
**To:** Kiser, Jason  
**Subject:** Message from MER1-4A-EXEC5  
**Attachments:** SMER1-4A-EX11113010110.pdf



CONFIDENTIAL

PX0016

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JA007535  
PLTF01018



EXECUTION VERSION<sup>1</sup>

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\$850,000,000

CREDIT AGREEMENT

dated as of October 1, 2010,

among

LIGHTSQUARED LP,

as Borrower,

LIGHTSQUARED INC.

and

THE OTHER GUARANTORS PARTY HERETO,

as Guarantors,

THE LENDERS PARTY HERETO

and

UBS SECURITIES LLC,

as Arranger, Bookmanager, Documentation Agent and Syndication Agent

and

UBS AG, STAMFORD BRANCH,

as Administrative Agent

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<sup>1</sup> In the form attached to the First Amendment to Credit Agreement, dated as of December 30, 2010.

LA\2140201.15



**SECTION 10.04 Successors and Assigns.**

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section 10.04, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section 10.04 or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by Borrower shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the other Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders.

(i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of the Administrative Agent; *provided* that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of any assignment made in connection with the primary syndication of the Commitment and Loans by the Arranger or an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$1,000,000 unless each of the Administrative Agent and, so long as no Default has occurred and is continuing, Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate tranches on a non-*pro rata* basis; and



(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500, and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section 10.04, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.12, 2.15 and 10.03 with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.04(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of Borrower, shall maintain a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and Borrower, the Administrative Agent and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower, the Collateral Trustee and any Lender (with respect to its own interest only), at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, Borrower or the Administrative Agent sell participations to any person (other than a natural person, Borrower or any of its Affiliates or any Disqualified Company) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); *provided that* (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that (i) the relevant participant shall not be permitted to sell sub-participations to any natural person, Borrower or any of its Affiliates or any Disqualified Company and (ii) such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents; *provided that* such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (i), (ii) or (iii) of the first proviso to Section 10.02(b) that affects such Participant. Borrower agrees that any breach by any Lender or participant or sub-participant of the restrictions on assignment hereunder (including, without limitation, to Disqualified Companies) shall not excuse, in any



respect, performance by the Borrower under the Loan Documents. Subject to paragraph (e) of this Section, Borrower further agrees that each Participant shall be entitled to the benefits of Sections 2.12 and 2.15 (subject to the requirements of those Sections) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; *provided* such Participant agrees to be subject to Section 2.14 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(c) Limitations on Participant Rights. A Participant shall not be entitled to receive any greater payment under Sections 2.12 and 2.15 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with Borrower's prior written consent (not to be unreasonably withheld or delayed).

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In the case of any Lender that is a fund that invests in bank loans, such Lender may, without the consent of Borrower or the Administrative Agent, collaterally assign or pledge all or any portion of its rights under this Agreement, including the Loans and Notes or any other instrument evidencing its rights as a Lender under this Agreement, to any holder of, trustee for, or any other representative of holders of, obligations owed or securities issued, by such fund, as security for such obligations or securities.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Requirement of Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar laws, domestic or foreign, federal, state, provincial or otherwise, based on or analogous or similar to the *Uniform Electronic Transactions Act*.

(h) Limitation on Assignments to and Participations by Affiliates. Notwithstanding anything to the contrary in this Section 10.04, no Affiliate of Borrower or any Subsidiary of Borrower may be an assignee of a Loan or Commitment or a Participant.



#### **SECTION 10.05 Survival of Agreement.**

All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.12, 2.14, 2.15 and Article X (other than Section 10.12) shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

#### **SECTION 10.06 Counterparts; Integration; Effectiveness.**

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, any separate letter agreements with respect to fees payable to the Administrative Agent, the provisions identified in Section 5 of the Commitment Letter as surviving the termination thereof and the penultimate paragraph of Section 2 of the Commitment Letter constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopier or other electronic transmission (i.e. a "pdf" or "tif" document) shall be effective as delivery of a manually executed counterpart of this Agreement.

#### **SECTION 10.07 Severability.**

Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

#### **SECTION 10.08 Right of Setoff.**

If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of Borrower or any other Loan Party against any and all of the obligations of Borrower or such Loan Party now or hereaf-



"**Communications Licenses**" shall mean all authorizations, licenses, permits, certificates, approvals, registrations, orders and franchises and similar forms of authority issued to or conferred upon (i) any Company or (ii) any Specified Canadian Subsidiary, in each case by any Governmental Authority (including, without limitation, the FCC, Industry Canada and the CRTC) with respect to the use of radio frequencies and/or the provision of communications or telecommunications services in connection with the operation of the Network and/or the provision of satellite or wireless services, as in effect from time to time.

"**Companies**" shall mean the Parents, Borrower and Borrower's Subsidiaries; and "**Company**" shall mean any one of them.

"**Compliance Certificate**" shall mean a certificate of a Financial Officer substantially in the form of Exhibit D.

"**Contingent Obligation**" shall mean, as to any person, any obligation, agreement, understanding or arrangement of such person guaranteeing or intended to guarantee any Indebtedness, leases, dividends or other obligations ("**primary obligations**") of any other person (the "**primary obligor**") in any manner, whether directly or indirectly, including any obligation of such person, whether or not contingent, (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor; (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation; (d) with respect to bankers' acceptances, letters of credit and similar credit arrangements, until a reimbursement obligation arises (which reimbursement obligation shall constitute Indebtedness); or (e) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however*, that the term "Contingent Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business or any product warranties. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such person may be liable, whether singly or jointly, pursuant to the terms of the instrument evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such person is required to perform thereunder) as determined by such person in good faith.

"**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and the terms "**Controlling**" and "**Controlled**" shall have meanings correlative thereto.

"**Control Agreement**" shall have the meaning assigned to such term in the U.S. Security Agreement and the Canadian Security Agreement.

"**Controlled Investment Affiliate**" shall mean, as to any person, any other person which directly or indirectly is in Control of, is Controlled by, or is under common Control with, such person and is organized primarily for making equity or debt investments in Holdings or other portfolio companies.

"**Credit Extension**" shall mean the making of a Loan by a Lender.



"CRTC" shall mean the Canadian Radio-television and Telecommunications Commission, or any successor agency administering the Canadian Broadcasting Act and the Canadian Telecommunications Act, including its staff acting under delegated authority.

"Currency Due" shall have the meaning assigned to such term in Section 2.21.

"Debt Issuance" shall mean the incurrence by Borrower or any of its Subsidiaries of any Indebtedness after the Closing Date (other than as permitted by Section 6.01).

"Default" shall mean any event, occurrence or condition which is, or upon notice, lapse of time or both would constitute, an Event of Default.

"Default Rate" shall have the meaning assigned to such term in Section 2.06(c).

"Defaulting Lender" shall mean any Lender, as determined by the Administrative Agent, that (a) has failed to fund any portion of its Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder, (b) has notified the Administrative Agent, any Lender and/or Borrower in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans or (d) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute.

"Disqualified Capital Stock" shall mean any Equity Interest which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is 180 days after the Final Maturity Date, (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interests referred to in (a) above, in each case at any time on or prior to the date that is 180 days after the Final Maturity Date, or (c) contains any repurchase obligation which may come into effect prior to payment in full of all Obligations; *provided, however*, that any Equity Interests that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Equity Interests is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Equity Interests upon the occurrence of a change in control or an asset sale occurring prior to the date that is 180 days after the Final Maturity Date shall not constitute Disqualified Capital Stock if such Equity Interests provide that the issuer thereof will not redeem any such Equity Interests pursuant to such provisions prior to the repayment in full of the Obligations.

"Disqualified Company" means any operating company which is a direct competitor of the Borrower identified to the Administrative Agent in writing prior to the Closing Date and set forth on Schedule 1.01(a), and thereafter, upon the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed), such additional bona fide operating companies which are direct com-



petitors of the Borrower as may be identified to the Administrative Agent from time to time and notified to the Lenders. A Disqualified Company will include any known subsidiary thereof.

"Dividend" with respect to any person shall mean that such person has declared or paid a dividend or returned any equity capital to the holders of its Equity Interests or authorized or made any other distribution, payment or delivery of property (other than Qualified Capital Stock of such person) or cash to the holders of its Equity Interests as such, or redeemed, retired, purchased or otherwise acquired, directly or indirectly, for consideration any of its Equity Interests outstanding (or any options or warrants issued by such person with respect to its Equity Interests), or set aside any funds for any of the foregoing purposes, or shall have permitted any of its Subsidiaries to purchase or otherwise acquire for consideration any of the Equity Interests of such person outstanding (or any options or warrants issued by such person with respect to its Equity Interests). Without limiting the foregoing, "Dividends" with respect to any person shall also include all payments made or required to be made by such person with respect to any stock appreciation rights, plans, equity incentive or achievement plans or any similar plans or setting aside of any funds for the foregoing purposes.

"Documentation Agent" shall have the meaning assigned to such term in the preamble hereto.

"dollars" or "\$" shall mean lawful money of the United States.

"Domestic Subsidiary" shall mean any Subsidiary that is organized or existing under the laws of the United States, any state thereof or the District of Columbia.

"Eligible Assignee" shall mean any person to whom it is permitted to assign Loans and Commitments pursuant to Section 10.04(b)(i); provided that "Eligible Assignee" shall not include Borrower or any of its Affiliates or Subsidiaries, any natural person or any Disqualified Company.

"Embargoed Person" shall mean any party that (i) is publicly identified on the most current list of "Specially Designated Nationals and Blocked Persons" published by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") or resides, is organized or chartered, or has a place of business in a country or territory subject to OFAC sanctions or embargo programs or (ii) is publicly identified as prohibited from doing business with the United States under the International Emergency Economic Powers Act, the Trading With the Enemy Act, or any other Requirement of Law.

"Environment" shall mean ambient air, indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, natural resources, the workplace or as otherwise defined in any Environmental Law.

"Environmental Claim" shall mean any claim, notice, demand, order, action, suit, proceeding or other communication alleging liability for or obligation with respect to any investigation, remediation, removal, cleanup, response, corrective action, damages to natural resources, personal injury, property damage, fines, penalties or other costs resulting from, related to or arising out of (i) the presence, Release or threatened Release in or into the Environment of Hazardous Material at any location or (ii) any violation or alleged violation of any Environmental Law, and shall include any claim seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from, related to or arising out of the presence, Release or threatened Release of Hazardous Material or alleged injury or threat of injury to health, safety or the Environment.



IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISH NETWORK  
DERIVATIVE LITIGATION.

SUPREME COURT No. 69012

JACKSONVILLE POLICE AND FIRE  
PENSION FUND,

SUPREME COURT No. 69729

**SEALED**

Appellant,

vs.

**JOINT APPENDIX  
VOLUME 32 of 44**

GEORGE R. BROKAW; CHARLES M.  
LILLIS; TOM A. ORTOLF; CHARLES  
W. ERGEN; CANTEY M. ERGEN;  
JAMES DEFRANCO; DAVID K.  
MOSKOWITZ; CARL E. VOGEL;  
THOMAS A. CULLEN; KYLE J. KISER;  
AND R. STANTON DODGE,

Respondent.

**FILED**

AUG 17 2016

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CLERK OF SUPREME COURT  
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DEPUTY CLERK

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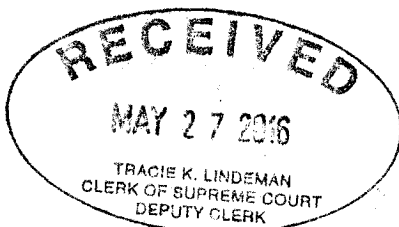
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JA 007769-72

unsealed portion per order 8-17-16

Attorneys for Appellant Jacksonville Police and Fire Pension Fund



**SEALED**



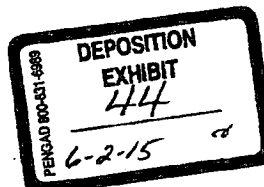
July 24, 2013

Members of the Board of Directors  
DISH Network Corporation  
9601 South Meridian Boulevard  
Englewood, Colorado 80112

Dear Board members:

As members of the committee of disinterested directors (the "Ergen LightSquared Transaction Committee") of the Board of Directors (the "Board") of DISH Network Corporation ("DISH" or the "Corporation"), we write concerning the action taken at the July 21, 2013 meeting of the Board (the "July 21 Board Meeting") to terminate the Ergen LightSquared Transaction Committee. As you know, the Ergen LightSquared Transaction Committee was formed to evaluate and make recommendation(s) to the Board with respect to a possible transaction between LightSquared LP and/or LightSquared Inc. (collectively, "LightSquared") and the Corporation (the "Ergen LightSquared Transaction"), in which Mr. Charles Ergen, the Corporation's Chairman and majority shareholder (the "Chairman"), has a personal financial interest. The Chairman's initial offer (which was made in May 2013) was for the Corporation to acquire some or all of the equity of the entity formed by the Chairman to acquire certain L-Band Spectrum (the "L-Band Spectrum") from LightSquared (the "L-Band Acquisition Vehicle"). At the time the Ergen LightSquared Transaction Committee was formed in early May, the Board recognized that it was necessary for a committee of directors who are not affiliated with the Chairman, not employed by the Corporation or EchoStar Communications Inc. ("EchoStar"), and not members of the board of directors of EchoStar, to review and approve the proposed transaction to ensure its fairness to the Corporation's shareholders. Among the reasons why the Board formed the Ergen LightSquared Transaction Committee were: (i) that the Chairman (or entities controlled by the Chairman) owned the L-Band Acquisition Vehicle; (ii) that the Chairman had acquired approximately \$1 Billion (face value) of debt issued by LightSquared (as well as having entered into unsettled trades to purchase an unknown quantity of LightSquared preferred stock), which might be paid off at a profit if the proposed transaction went forward; and (iii) that the Chairman had offered EchoStar an opportunity to participate in the Ergen LightSquared Transaction. Furthermore, the Board recognized that the Chairman's acquisition of the LightSquared debt gave rise to potential conflicts of interest between the Chairman and DISH.

On or about July 19, 2013, we were told by the Chairman's counsel at Willkie Farr & Gallagher LLP that the Chairman intended to proceed with a proposal to acquire the L-Band Spectrum from LightSquared at a price of \$2.2-\$2.3 billion (the "Firm Bid"). At or around the



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Members of the Board of Directors  
July 24, 2013

same time, we also received a draft Asset Purchase Agreement (the "APA") from the Chairman's counsel which outlined the structure for the Firm Bid. We were further advised by the Chairman's counsel that EchoStar was interested in acquiring up to forty percent (40%) of the L-Band Acquisition Vehicle. The specific terms of a potential acquisition by DISH of an interest in the L-Band Acquisition Vehicle were not provided to us at that time. Accordingly, the Ergen LightSquared Transaction Committee only reviewed the fairness of the terms and proposed price for the acquisition of the L-Band Spectrum contained in the Firm Bid and APA, and envisioned that the terms of DISH's acquisition of an interest in the L-Band Acquisition Vehicle would be subject to further negotiation with the Chairman and his counsel. Working with our financial and legal advisors, the Ergen LightSquared Transaction Committee reviewed the fairness to DISH and its shareholders of the Firm Bid and APA.

Based upon this review, and the significant work done by our advisers, the Ergen LightSquared Transaction Committee made a recommendation to the Board on Sunday July 21, 2013, that the Corporation should participate in the Firm Bid. However, as we specifically stated at the July 21 Board Meeting (and as the Ergen LightSquared Transaction Committee's outside counsel informed the Corporation's outside counsel), our recommendation was expressly made subject to, and premised upon, the following conditions:

- That any material changes to the terms of the Firm Bid and/or APA would be subject to the review and approval of the Ergen LightSquared Transaction Committee;
- That DISH would acquire one hundred percent (100%) of the L-Band Acquisition Vehicle, to the exclusion of EchoStar. Any agreement to acquire less than one hundred percent (100%) of the L-Band Acquisition Vehicle was not covered by the fairness opinion issued by the Ergen LightSquared Transaction Committee's financial advisors and would be subject to review and approval by the Ergen LightSquared Transaction Committee after consulting with its advisors;
- That the Ergen LightSquared Transaction Committee and its legal and financial advisers would remain involved in all negotiations regarding the Ergen LightSquared Transaction going forward, so that the Ergen LightSquared Transaction Committee would be able to, among other things, monitor and manage potential conflicts of interest as they arise, and react quickly in the event that any of the material terms (including price) of the transaction changed;
- That the Ergen LightSquared Transaction Committee would review and approve the terms of the acquisition by DISH of the Chairman's interest in the L-Band Acquisition Vehicle, including with respect to the assumption of any liabilities incurred by the L-Band Acquisition Vehicle; and

Page 2



Members of the Board of Directors

July 24, 2013

- That the Ergen LightSquared Transaction Committee had requested in writing from the Chairman information regarding the Chairman's acquisition of debt and/or other securities issued by LightSquared, but had not yet received the information necessary for the Ergen LightSquared Transaction Committee to make an evaluation of potential conflicts of interest raised by that acquisition. Accordingly, the Ergen LightSquared Transaction Committee did not waive, but rather expressly reserved, the right to obtain all of the requested information, as well as the right to evaluate potential corporate opportunity issues in connection with the acquisition of such debt and/or other securities.

When the Ergen LightSquared Transaction Committee made its recommendation and these conditions were specified, the Ergen LightSquared Transaction Committee did not know that the Board was planning to terminate the Ergen LightSquared Transaction Committee. The agenda for the Board meeting did not include termination as a discussion item and there was never any prior notice or discussion with respect to such termination with the members of the Ergen LightSquared Transaction Committee or their counsel. The Ergen LightSquared Transaction Committee did not recommend or endorse the termination of the Ergen LightSquared Transaction Committee, and as is clear from the conditions that accompanied the Ergen LightSquared Transaction Committee's recommendation, we believe that there are continuing issues that relate to the fairness of a transaction and potential conflicts of interest with the Chairman that we believe should be subject to independent scrutiny and evaluation. Since the Board has acted to terminate the Ergen LightSquared Transaction Committee, the Board will need to use alternative means to ensure that such issues are subject to appropriate independent scrutiny and analysis.

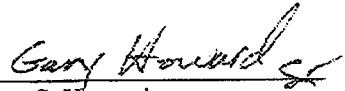
We have been notified by the Corporation that because the Ergen LightSquared Transaction Committee has been terminated, the Ergen LightSquared Transaction Committee should terminate the services of its advisors and outside counsel. We will comply with the Corporation's directive, provided that we have directed outside counsel to finalize the minutes and other records of the Ergen LightSquared Transaction Committee (which we expect will be completed promptly). In addition, circumstances in the future may arise in which the members of the Ergen LightSquared Transaction Committee need separate, independent counsel to represent and advise them in litigation or regulatory proceedings or to provide legal advice on issues related to the Ergen LightSquared Transaction and/or their service on the Special Committee. The Board's action in terminating the Ergen LightSquared Transaction Committee does not deprive the members of the Ergen LightSquared Transaction Committee of their right to retain independent counsel, and we expect that the Corporation will provide us with indemnification and advancement for all attorneys' fees and expenses we incur in connection with any such litigation and/or regulatory proceedings and/or advice.

Page 3

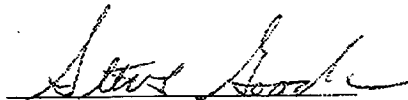


Members of the Board of Directors  
July 24, 2013

Very truly yours,



Gary S. Howard  
Member of the Ergen LightSquared  
Transaction Committee



Steven R. Goodbarn  
Member of the Ergen LightSquared  
Transaction Committee

Page 4

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IN THE MATTER OF DISH NETWORK  
DERIVATIVE LITIGATION

SUPREME COURT No. 69012

JACKSONVILLE POLICE AND FIRE  
PENSION FUND,

SUPREME COURT No. 69729

Appellant,

vs.

GEORGE R. BROKAW; CHARLES M.  
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W. ERGEN; CANTEY M. ERGEN;  
JAMES DEFRANCO; DAVID K.  
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AND R. STANTON DODGE,

Respondent.

JOINT APPENDIX  
VOLUME 33 of 44

FILED

AUG 17 2016

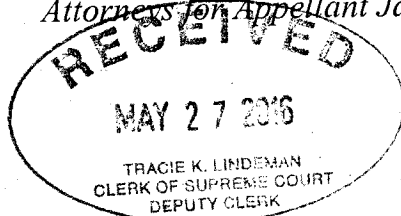
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Attorneys for Appellant Jacksonville Police and Fire Pension Fund



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unsealed portion per order 8-17-16



Message

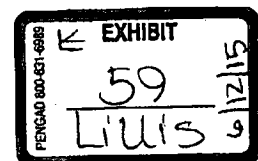
From: Chuck Lillis [/O=OEXCH027/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CLILLIS@CASTLEPINESPARTD82]  
Sent: 11/4/2012 7:55:41 AM  
To: Cullen, Thomas [Thomas.Cullen@dish.com]  
Subject: Re: Sweet win tonight

Good morning. What a heck of a game! The Ducks played very well, even on defense. Barkley is terrific but so is the freshman Mariota. The golf game was challenging. My first round of the year and with new clubs! My partner was Casey Martin who is a good guy. The duck foursome lost every pairing to the USC players. There were, however, some interesting maneuvers. Each of the USC pairs had one high handicap club (LACC) member playing. My counterpart, representing USC, had a 19 handicap but shot 41 on the front nine! As Casey said "we couldn't have played well enough to win". Each foursome faced a similar deal! I had some good shots and a lot of not so good shots. Not embarrassing but weak. I like the clubs. Cml

Sent from my iPad

On Nov 3, 2012, at 8:45 PM, "Cullen, Thomas" <Thomas.Cullen@dish.com> wrote:

> Irish were sweating. How were the new clubs, you hold your own in the big match? Charlie was appreciative and committed to the tennessee game next year. !! Have fun in LA. Tom



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