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8 *Counsel for Plaintiff*

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 \_\_\_\_\_, Individually and on behalf  
12 of all others similarly situated,

13 Plaintiff,

14 v.

15 SILVERGATE CAPITAL  
16 CORPORATION, ALAN J. LANE,  
17 and ANTONIO MARTINO,

18 Defendants.  
19

No.

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF THE  
FEDERAL SECURITIES LAWS**

CLASS ACTION

JURY TRIAL DEMANDED

1  
2 Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all  
3 others similarly situated, by and through his attorneys, alleges the following  
4 upon information and belief, except as to those allegations concerning Plaintiff,  
5 which are alleged upon personal knowledge. Plaintiff’s information and belief is  
6 based upon, among other things, his counsel’s investigation, which includes  
7 without limitation: (a) review and analysis of regulatory filings made by  
8 Silvergate Capital Corporation (“Silvergate” or the “Company”) with the  
9 United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b)  
10 review and analysis of press releases and media reports issued by and  
11 disseminated by Silvergate; and (c) review of other publicly available  
12 information concerning Silvergate.

### 13 NATURE OF THE ACTION

14 1. This is a class action on behalf of persons and entities that purchased  
15 or otherwise acquired Silvergate securities between November 9, 2021 and January  
16 5, 2023, inclusive (the “Class Period”). Plaintiff pursues claims against  
17 Defendants under the Securities Exchange Act of 1934 (the “Exchange Act”).

18 2. Silvergate is a digital currency company. Its platform, the Silvergate  
19 Exchange Network (“SEN”), provides payments, lending, and funding solutions  
20 for an expanding class of digital currency companies and investors. Silvergate is  
21 also the parent company of Silvergate Bank which provides financial services that  
22 include commercial banking, commercial and real estate lending, mortgage  
23 warehouse lending, and commercial business lending.

24 3. On November 15, 2022, Marcus Aurelius Research tweeted that  
25 “Recently subpoenaed Silvergate bank records reveal \$425 million in transfers  
26 from \$SI crypto bank accounts to South American money launderers. Affidavit  
27 from investigation into crypto crime ring linked to smugglers/drug traffickers.”  
28

1           4.     On this news, the Company’s Class A common stock price fell \$6.13,  
2     or 17%, to close at \$29.36 per share on November 15, 2022, on unusually heavy  
3     trading volume.

4           5.     On November 17, 2022, The Bear Cave newsletter released an article  
5     about several companies with potential exposure to recently collapsed  
6     cryptocurrency exchange FTX, including Silvergate. The article highlighted the  
7     connection linking Silvergate to a money laundering operation that transferred  
8     \$425 million off cryptocurrency trading platforms.

9           6.     On this news, the Company’s Class A common stock fell \$3.00, or  
10    10.7%, to close at \$24.90 per share on November 18, 2022, on unusually heavy  
11    trading volume.

12          7.     Then, on January 4, 2023, the Company issued a press release  
13    announcing that it would release select financial metrics before market open on  
14    Thursday, January 5, 2023, and would then host a business update conference call  
15    at 8:00 a.m. Eastern Time.

16          8.     On January 5, 2023, before the domestic stock markets opened,  
17    Silvergate issued a press release in which, in pertinent part, it disclosed that total  
18    deposits from digital asset customers had declined to \$3.8 billion as of December  
19    31, 2022, compared to \$11.9 billion as of September 30, 2022, a decline of roughly  
20    68%. In the same release, Silvergate acknowledged that there was a “crisis of  
21    confidence” across the cryptocurrency or digital asset ecosystem.

22          9.     That same day, *The Wall Street Journal* released an article titled  
23    “Silvergate’s Deposit Run is Worse Than Great Depression-Era Runs,” in which it  
24    noted that bank runs from 1930-1933 averaged deposit declines of nearly 38%, and  
25    that only a few (9 out of a sample size of 67) had deposit declines exceeding 50%.  
26    It further noted that during the 2008 crisis, deposit losses were substantially smaller  
27    than the losses faced by Silvergate.  
28



1 Judicial District. In addition, the Company's principal executive offices are located  
2 in this District.

3 15. In connection with the acts, transactions, and conduct alleged herein,  
4 Defendants directly and indirectly used the means and instrumentalities of  
5 interstate commerce, including the United States mail, interstate telephone  
6 communications, and the facilities of a national exchange.

7 **PARTIES**

8 16. Plaintiff \_\_\_\_\_, as set forth in the accompanying  
9 certification, incorporated by reference herein, purchased Silvergate securities  
10 during the Class Period, and suffered damages as a result of the federal securities  
11 law violations and false and/or misleading statements and/or material omissions  
12 alleged herein.

13 17. Defendant Silvergate is incorporated under the laws of Maryland  
14 with its principal executive offices located in La Jolla, California. Silvergate's  
15 Class A common stock trade on the New York Stock Exchange ("NYSE")  
16 under the symbol "SI," and its depository shares, each representing a 1/40th  
17 interest in a share of 5.375% fixed rate non-cumulative perpetual preferred  
18 stock, Series A trade under the symbol "SI PRA."

19 18. Defendant Alan J. Lane ("Lane") was the Company's Chief Executive  
20 Officer ("CEO") at all relevant times.

21 19. Defendant Antonio Martino ("Martino") was the Company's Chief  
22 Financial Officer ("CFO") at all relevant times.

23 20. Defendants Lane and Martino (collectively the "Individual  
24 Defendants"), because of their positions with the Company, possessed the power  
25 and authority to control the contents of the Company's reports to the SEC, press  
26 releases and presentations to securities analysts, money and portfolio managers and  
27 institutional investors, i.e., the market. The Individual Defendants were provided  
28 with copies of the Company's reports and press releases alleged herein to be

1 misleading prior to, or shortly after, their issuance and had the ability and  
2 opportunity to prevent their issuance or cause them to be corrected. Because of  
3 their positions and access to material non-public information available to them, the  
4 Individual Defendants knew that the adverse facts specified herein had not been  
5 disclosed to, and were being concealed from, the public, and that the positive  
6 representations which were being made were then materially false and/or  
7 misleading. The individual defendants are liable for the false statements pleaded  
8 herein.

## 9 **SUBSTANTIVE ALLEGATIONS**

### 10 **Background**

11  
12 21. Silvergate is a digital currency company. Its platform, the Silvergate  
13 Exchange Network (“SEN”), provides payments, lending, and funding solutions  
14 for an expanding class of digital currency companies and investors. Silvergate is  
15 also the parent company of Silvergate Bank which provides financial services that  
16 include commercial banking, commercial and residential real estate lending,  
17 mortgage warehouse lending, and commercial business lending.

### 18 **Materially False and Misleading**

#### 19 **Statements Issued During the Class Period**

20 22. The Class Period begins on November 9, 2021.<sup>1</sup> On that day, the  
21 Company filed its quarterly report on Form 10-Q for the period ended September  
22 30, 2021, stating that “the Company’s disclosure controls and procedures were  
23 effective as of September 30, 2021.”

24 23. On February 28, 2022, Silvergate filed its Form 10-K with the SEC  
25 for the year ended December 31, 2021 (the “2021 10-K”). The 2021 10-K touted  
26 the platform’s compliance with regulatory requirements, stating “[a]s of December  
27

28 <sup>1</sup> Unless otherwise stated, all emphasis in bold and italics hereinafter is added.

1 31, 2021, we had over 300 prospective digital currency customer leads in various  
2 stages of our customer onboarding process and pipeline, which includes *extensive*  
3 *regulatory compliance diligence.*” The 2021 10-K reiterated that “[o]ur solutions  
4 and services are built on our deep-rooted commitment and proprietary approach to  
5 regulatory compliance,” and that the Company has developed compliance  
6 capabilities, which “include *ongoing monitoring of customer activities* and  
7 evaluating a market participant’s ability to actively monitor the flow of funds of  
8 their own customers.”

9 24. The 2021 10-K also stated that the Company has policies to comply  
10 with applicable regulations regarding money laundering:

11 ***Anti-Terrorism, Money Laundering Legislation and OFAC***

12 \* \* \*

13 The Bank has established appropriate anti-money laundering and customer  
14 identification programs. The Bank also maintains records of cash purchases  
15 of negotiable instruments, files reports of certain cash transactions  
16 exceeding \$10,000 (daily aggregate amount), and reports suspicious activity  
17 that might signify money laundering, tax evasion, or other criminal  
18 activities pursuant to the Bank Secrecy Act. The Bank otherwise has  
19 implemented policies and procedures to comply with the foregoing  
20 requirements.

21 \* \* \*

22 ***The Bank has implemented policies and procedures to comply with the***  
23 ***foregoing requirements.***

24 25. The 2021 10-K contained the following risk related to the Digital  
25 Currency Industry, the ability to use digital currency to engage in illegal  
26 transactions, and how the Company’s risk management and compliance framework  
27 are meant to combat this risk.

28 ***The characteristic of digital currency have been, and may in the future***  
***continue to be, exploited to facilitate illegal activity such as fraud, money***

1           ***laundering, tax evasion and ransomware scams; if any of our customers***  
2           ***do so or are alleged to have done so, it could adversely affect us.***

3           Digital currencies and the digital currency industry are relatively new and,  
4           in many cases, lightly regulated or largely unregulated. Some types  
5           of digital currency have characteristics, such as the speed with which digital  
6           currency transactions can be conducted, the ability to conduct transactions  
7           without the involvement of regulated intermediaries, the ability to engage in  
8           transactions across multiple jurisdictions, the irreversible nature of certain  
9           digital currency transactions and encryption technology that anonymizes  
10          these transactions, that make digital currency particularly susceptible to use  
11          in illegal activity such as fraud, money laundering, tax evasion and  
12          ransomware scams. Two prominent examples of marketplaces that accepted  
13          digital currency payments for illegal activities include Silk Road, an online  
14          marketplace on the dark web that, among other things, facilitated the sale of  
15          illegal drugs and forged legal documents using digital currencies and  
16          AlphaBay, another darknet market that utilized digital currencies to hide the  
17          locations of its servers and identities of its users. Both of these marketplaces  
18          were investigated and closed by U.S. law enforcement authorities. U.S.  
19          regulators, including the SEC, Commodity Futures Trading Commission  
20          (the “CFTC”), and Federal Trade Commission (the “FTC”), as well as  
21          non-U.S. regulators, have taken legal action against persons alleged to be  
22          engaged in Ponzi schemes and other fraudulent schemes involving  
23          digital currencies. In addition, the Federal Bureau of Investigation has noted  
24          the increasing use of digital currency in various ransomware scams.

25          ***While we believe that our risk management and compliance framework,***  
26          ***which includes thorough reviews we conduct as part of our due diligence***  
27          ***process (either in connection with onboarding new customers or***  
28          ***monitoring existing customers), is reasonably designed to detect any such***  
                ***illicit activities*** conducted by our potential or existing customers (or, in the  
                case of digital currency exchanges, their customers), we cannot ensure  
                that we will be able to detect any such illegal activity in all instances.  
                Because the speed, irreversibility and anonymity of certain digital currency  
                transactions make them more difficult to track, fraudulent transactions may  
                be more likely to occur. We or our banking counterparties may be  
                specifically targeted by individuals seeking to conduct fraudulent transfers,  
                and it may be difficult or impossible for us to detect and avoid such  
                transactions in certain circumstances. If one of our customers (or in the case  
                of digital currency exchanges, their customers) were to engage in or be

1 accused of engaging in illegal activities using digital currency, we could be  
2 subject to various fines and sanctions, including limitations on our  
3 activities, which could also cause reputational damage and adversely affect  
4 our business, financial condition and results of operations.

5 (First emphasis in original.)

6 26. The 2021 10-K also contained the following risk factor purporting to  
7 warn that the Company would be at risk of enforcement actions if Silvergate  
8 failed to institute proper anti-money laundering programs:

9 *Financial institutions, such as the Bank, face risks of noncompliance and*  
10 *enforcement actions related to the Bank Secrecy Act and other anti-*  
11 *money laundering statutes and regulations (in particular, as such statutes*  
12 *and regulations relate to the digital currency industry).*

13 The Bank Secrecy Act, USA Patriot Act, FinCEN and other laws and  
14 regulations *require financial institutions, among other duties, to institute*  
15 *and maintain an effective anti-money laundering program and file*  
16 *suspicious activity and currency transaction reports as appropriate.* To  
17 administer the Bank Secrecy Act, FinCEN is authorized to impose  
18 significant civil money penalties for violations of those requirements and  
19 has recently engaged in coordinated enforcement efforts with the individual  
20 federal banking regulators, as well as the U.S. Department of Justice, Drug  
21 Enforcement Administration and the IRS. There is also increased scrutiny  
22 of compliance with the sanctions programs and rules administered and  
23 enforced by the Treasury Department's Office of Foreign Assets Control.

24 Our compliance with the anti-money laundering laws is in part dependent  
25 on our ability to adequately screen and monitor our customers for their  
26 compliance with these laws. Customers associated with our digital currency  
27 initiative may represent an increased compliance risk given the prevalence  
28 of money laundering activities using digital currencies. *We have developed*  
*enhanced procedures to screen and monitor these customers, which*  
*include, but are not limited to, system monitoring rules tailored to digital*  
*currency activities, a system of "red flags" specific to various customer*  
*types and activities, the development of and investment in proprietary*  
*technology tools to supplement our third-party transaction monitoring*  
*system, customer risk scoring with risk factors specific to the digital-*

1 *currency industry, and the use of various blockchain monitoring tools.*  
2 *We believe these enhanced procedures adequately screen and monitor our*  
3 *customers associated with the digital currency initiative for their*  
4 *compliance with anti-money laundering laws;* however, given the rapid  
5 developments in digital currency markets and technologies, there can be no  
6 assurance that these enhanced procedures will be adequate to detect or  
7 prevent money laundering activity. If regulators determine that our  
8 enhanced procedures are insufficient to address the financial crimes risks  
9 posed by digital currencies, the digital currency initiative may be adversely  
10 affected, which could have a material adverse effect on our business,  
11 financial condition and results of operations.

9 *To comply with regulations, guidelines and examination procedures in*  
10 *this area, we have dedicated significant resources to our anti-money*  
11 *laundering program.* If our policies, procedures and systems are deemed  
12 deficient, we could be subject to liability, including fines and regulatory  
13 actions such as restrictions on our ability to pay dividends and the inability  
14 to obtain regulatory approvals to proceed with certain aspects of our  
15 business plans, including acquisitions and de novo branching.

15 27. The 2021 10-K stated that management determined that “as of  
16 December 31, 2021, the Company maintained effective internal control over  
17 financial reporting. . . .”

18 28. On May 5, 2022, Silvergate filed its Form 10-Q with the SEC for the  
19 period ended March 31, 2022 (“the 1Q22 10-Q”), incorporating by reference the  
20 previously discussed risks discussed in the 2021 10-K. The 1Q22 10-Q also  
21 reaffirmed statements from the 2021 10-K touting the Company’s platform’s  
22 compliance with regulatory requirements, stating “[a]s of March 31, 2022, we had  
23 over 300 prospective digital currency customer leads in various stages of our  
24 customer onboarding process and pipeline, which includes *extensive regulatory*  
25 *compliance diligence.*”

26 29. The 1Q22 10-Q stated that there were no changes to the Company’s  
27  
28

1 internal control over financial reporting and affirmed that “the Company’s  
2 disclosure controls and procedures were effective as of March 31, 2022.”

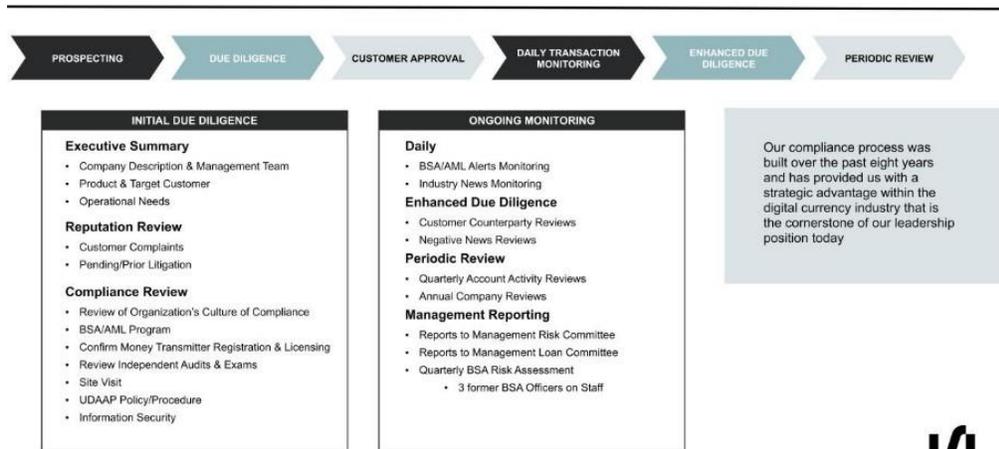
3 30. On August 8, 2022, the Company filed its Form 10-Q with the SEC  
4 for the period ended June 30, 2022 (the “2Q22 10-Q”), incorporating by reference  
5 the previously discussed risks discussed in the 2021 10-K.

6 31. The 2Q22 10-Q also reaffirmed statements from the 2021 10-K touting

7 32. the Company’s platform’s compliance with regulatory requirements,  
8 stating “[a]s of June 30, 2022, we had over 300 prospective digital currency  
9 customer leads in various stages of our customer onboarding process and pipeline,  
10 which includes extensive regulatory compliance diligence.”

11 33. The 2Q22 10-Q reaffirmed that there were no changes to the  
12 Company’s internal control over financial reporting and that “the Company’s  
13 disclosure controls and procedures were effective as of June 30, 2022.”

14 Robust compliance and risk management framework



1           34. On November 1, 2022, Silvergate held an investor presentation, which  
2 was filed as Exhibit 99.1 to a Form 8-K filed with the SEC the same day. It stated  
3 the following about compliance and risk management.

4           35. On November 7, 2022, Silvergate filed its Form 10-Q with the SEC  
5 for the period ended September 30, 2022 (the “3Q22 10-Q”), incorporating by  
6 reference the previously discussed risks discussed in the 2021 10-K. The 3Q22 10-  
7 Q also reaffirmed statements from the 2021 10-K touting the Company’s platform’s  
8 compliance with regulatory requirements, stating “[a]s of September 30, 2022, we  
9 had over 300 prospective digital currency customer leads in various stages of our  
10 customer onboarding process and pipeline, which includes extensive regulatory  
11 compliance diligence.”

12           36. The 3Q22 10-Q reaffirmed that there were no changes to the  
13 Company’s internal control over financial reporting and that “the Company’s  
14 disclosure controls and procedures were effective as of September 30, 2022.”

15           37. On November 16, 2022, Silvergate issued a press release providing,  
16 among other things, a mid-quarter update. The press release stated:

17  
18  
19           “Silvergate’s platform, including our risk management and compliance  
20 infrastructure, was built to support our clients during times of market  
21 volatility and transformation,” said Alan Lane, CEO of Silvergate.

22           38. The above statements identified in ¶¶ 18-32 were materially false  
23 and/or misleading, and failed to disclose material adverse facts about the  
24 Company’s business, operations, and prospects. Specifically, Defendants failed to  
25 disclose to investors: (1) that the Company’s platform lacked sufficient controls and  
26 procedures to detect instances of money laundering; (2) that Silvergate’s customers  
27 had engaged in money laundering in amounts exceeding \$425 million; (3) that, as  
28 a result of the foregoing, the Company was reasonably likely to receive regulatory

1 scrutiny and face damages, including penalties and reputational harm and (4) that,  
2 as a result of the foregoing, Defendant’s positive statements about the Company’s  
3 business, operations, and prospects were materially misleading and/or lacked a  
4 reasonable basis.

5 **Disclosures at the End of the Class Period**  
6

7 39. On November 15, 2022, Marcus Aurelius Research tweeted that  
8 “Recently subpoenaed Silvergate bank records reveal \$425 million in transfers  
9 from \$SI crypto bank accounts to South American money launderers. Affidavit  
10 from investigation into crypto crime ring linked to smugglers/drug traffickers.”  
11 The tweet contained a link to an August 2022 forfeiture application for probable  
12 cause filed in Broward County, Florida. The forfeiture application connected  
13 Silvergate to a money laundering operation and stated, in relevant part:

14 In June 2022, *your Affiant subpoenaed bank account records for multiple*  
15 *digital cryptocurrency trading platforms held at Silvergate Bank.* The  
16 records for those accounts held in the name of OSL Digital LTD, OSL SG  
17 PTE LTD, Paxos Global PTE LTD, and Paxos Trust Company LLC. In  
18 these records were the wire transfer payment details from the various  
19 operating accounts which represented the funds being transferred off the  
20 respective cryptocurrency platforms and into the US financial system.

20 Your Affiant examined the records produced by Silvergate Bank  
21 found the following:

21 (i) *During the period of September 2021 to June 2022 ten*  
22 *companies had transferred a total of over \$425 million dollars off these*  
23 *cryptocurrency trading platforms into accounts held at different US*  
24 *banks.*

24 (ii) The accounts of these ten companies were receiving funds in  
25 the same pattern as those previously identified and seized (discussed above)  
26 by the MLTF for being used to facilitate the laundering of illicit funds

27 (iii) In addition to the transaction pattern of these ten companies  
28 being consistent with those previously identified as being used to facilitate

1 money laundering, your Affiant noted that the transaction patterns of these  
2 ten companies were not consistent with the transaction patters of thousands  
3 of other persons and businesses using the same digital currency trading  
platforms contained in the same records.

4 40. On this news, the Company's Class A common stock price fell \$6.13,  
5 or 17%, to close at \$29.36 per share on November 15, 2022, on unusually heavy  
6 trading volume.

7 41. On November 17, 2022, The Bear Cave newsletter released an article  
8 about several companies with potential exposures to recently collapsed  
9 cryptocurrency exchange FTX, including Silvergate. In addition to the money  
10 laundering operation linked to Silvergate that transferred \$425 million off  
11 cryptocurrency trading platforms, it drew attention to potential violations of  
12 Silvergate's anti-nepotism policy:

13 In February 2022, Silvergate, which has ~\$13 billion in deposits, boasted  
14 that its exchange network "recently crossed \$1 trillion in cumulative  
15 payment volumes [and] is integral to the everyday operations of our digital  
16 currency customers."

17  
18 Last week, Silvergate replaced its Chief Risk Officer with its Chief  
19 Operating Officer. The former Chief Risk Officer was Tyler Pearson. Mr.  
20 Pearson is the son-in-law of Silvergate's CEO Alan Lane. Silvergate's Bank  
21 Manager of Correspondent Banking is Jason Brenier. Mr. Brenier is also the  
22 son-in-law of Silvergate's CEO Alan Lane. And Silvergate's Chief  
23 Technology Officer, Chris Lane, is the son of Alan Lane. In its most recent  
proxy filing, Silvergate said the employments were in compliance with its  
"Anti-Nepotism Policy."

24 42. On this news, the Company's Class A common stock price fell \$3.00,  
25 or 10.7%, to close at \$24.90 per share on November 18, 2022, on unusually heavy  
26 trading volume.

27 43. Then, on January 5, 2023, the Company made the aforementioned  
28

1 disclosure regarding the dramatic decline in the amount of deposits, resulting in a  
2 43% decline in the stock price.

### 3 **CLASS ACTION ALLEGATIONS**

4 44. Plaintiff brings this action as a class action pursuant to Federal Rule  
5 of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons  
6 and entities that purchased or otherwise acquired Silvergate securities between  
7 November 9, 2021 and November 17, 2022, inclusive, and who were damaged  
8 thereby (the “Class”). Excluded from the Class are Defendants, the officers and  
9 directors of the Company, at all relevant times, members of their immediate  
10 families and their legal representatives, heirs, successors, or assigns, and any entity  
11 in which Defendants have or had a controlling interest.

12 45. The members of the Class are so numerous that joinder of all members  
13 is impracticable. Throughout the Class Period, Silvergate’s shares actively traded  
14 on the NYSE. While the exact number of Class members is unknown to Plaintiff  
15 at this time and can only be ascertained through appropriate discovery, Plaintiff  
16 believes that there are at least hundreds or thousands of members in the proposed  
17 Class. Millions of Silvergate shares were traded publicly during the Class Period  
18 on the NYSE. Record owners and other members of the Class may be identified  
19 from records maintained by Silvergate or its transfer agent and may be notified of  
20 the pendency of this action by mail, using the form of notice similar to that  
21 customarily used in securities class actions.

22 46. Plaintiff’s claims are typical of the claims of the members of the Class  
23 as all members of the Class are similarly affected by Defendants’ wrongful conduct  
24 in violation of federal law that is complained of herein.

25 47. Plaintiff will fairly and adequately protect the interests of the members  
26 of the Class and has retained counsel competent and experienced in class and  
27 securities litigation.  
28



1 necessary to make Defendants' statements, as set forth herein, not false and/or  
2 misleading. The statements and omissions were materially false and/or misleading  
3 because they failed to disclose material adverse information and/or misrepresented  
4 the truth about Silvergate's business, operations, and prospects as alleged herein.

5 52. At all relevant times, the material misrepresentations and omissions  
6 particularized in this Complaint directly or proximately caused or were a  
7 substantial contributing cause of the damages sustained by Plaintiff and other  
8 members of the Class. As described herein, during the Class Period, Defendants  
9 made or caused to be made a series of materially false and/or misleading  
10 statements about Silvergate's financial well-being and prospects. These material  
11 misstatements and/or omissions had the cause and effect of creating in the market  
12 an unrealistically positive assessment of the Company and its financial well-being  
13 and prospects, thus causing the Company's securities to be overvalued and  
14 artificially inflated at all relevant times. Defendants' materially false and/or  
15 misleading statements during the Class Period resulted in Plaintiff and other  
16 members of the Class purchasing the Company's securities at artificially inflated  
17 prices, thus causing the damages complained of herein when the truth was  
18 revealed.

### 19 **LOSS CAUSATION**

20 53. Defendants' wrongful conduct, as alleged herein, directly and  
21 proximately caused the economic loss suffered by Plaintiff and the Class.

22 54. During the Class Period, Plaintiff and the Class purchased  
23 Silvergate's securities at artificially inflated prices and were damaged thereby. The  
24 price of the Company's securities significantly declined when the  
25 misrepresentations made to the market, and/or the information alleged herein to  
26 have been concealed from the market, and/or the effects thereof, were revealed,  
27 causing investors' losses.  
28



1 to be made a series of materially false and/or misleading statements about  
2 Silvergate's business, prospects, and operations. These material misstatements  
3 and/or omissions created an unrealistically positive assessment of Silvergate and  
4 its business, operations, and prospects, thus causing the price of the Company's  
5 securities to be artificially inflated at all relevant times, and when disclosed,  
6 negatively affected the value of the Company shares. Defendants' materially false  
7 and/or misleading statements during the Class Period resulted in Plaintiff and other  
8 members of the Class purchasing the Company's securities at such artificially  
9 inflated prices, and each of them has been damaged as a result.

10 58. At all relevant times, the market for Silvergate's securities was an  
11 efficient market for the following reasons, among others:

12 (a) Silvergate shares met the requirements for listing, and was listed and  
13 actively traded on the NYSE, a highly efficient and automated market;

14 (b) As a regulated issuer, Silvergate filed periodic public reports with the  
15 SEC and/or the NYSE;

16 (c) Silvergate regularly communicated with public investors via  
17 established market communication mechanisms, including through regular  
18 dissemination of press releases on the national circuits of major newswire services  
19 and through other wide-ranging public disclosures, such as communications with  
20 the financial press and other similar reporting services; and/or

21 (d) Silvergate was followed by securities analysts employed by brokerage  
22 firms who wrote reports about the Company, and these reports were distributed to  
23 the sales force and certain customers of their respective brokerage firms. Each of  
24 these reports was publicly available and entered the public marketplace.

25 59. As a result of the foregoing, the market for Silvergate's securities  
26 promptly digested current information regarding Silvergate from all publicly  
27 available sources and reflected such information in Silvergate's share price. Under  
28

1 these circumstances, all purchasers of Silvergate’s securities during the Class  
2 Period suffered similar injury through their purchase of Silvergate’s securities at  
3 artificially inflated prices and a presumption of reliance applies.

4 60. A Class-wide presumption of reliance is also appropriate in this action  
5 under the Supreme Court’s holding in *Affiliated Ute Citizens of Utah v. United*  
6 *States*, 406 U.S. 128 (1972), because the Class’s claims are, in large part,  
7 grounded on Defendants’ material misstatements and/or omissions. Because this  
8 action involves Defendants’ failure to disclose material adverse information  
9 regarding the Company’s business operations and financial prospects—  
10 information that Defendants were obligated to disclose—positive proof of reliance  
11 is not a prerequisite to recovery. All that is necessary is that the facts withheld be  
12 material in the sense that a reasonable investor might have considered them  
13 important in making investment decisions. Given the importance of the Class  
14 Period material misstatements and omissions set  
15 forth above, that requirement is satisfied here.

16 **NO SAFE HARBOR**

17 61. The statutory safe harbor provided for forward-looking statements  
18 under certain circumstances does not apply to any of the allegedly false statements  
19 pleaded in this Complaint. The statements alleged to be false and misleading herein  
20 all relate to then-existing facts and conditions. In addition, to the extent certain  
21 statements alleged to be false may be characterized as forward looking, they were  
22 not identified as “forward-looking statements” when made and there were no  
23 meaningful cautionary statements identifying important factors that could cause  
24 actual results to differ materially from those in the purportedly forward-looking  
25 statements. In the alternative, to the extent that the statutory safe harbor is  
26 determined to apply to any forward-looking statements pleaded herein, Defendants  
27 are liable for those false forward-looking statements because at the time each of  
28

1 those forward-looking statements was made, the speaker had actual knowledge that  
2 the forward-looking statement was materially false or misleading, and/or the  
3 forward-looking statement was authorized or approved by an executive officer of  
4 Silvergate who knew that the statement was false when made.

5 **First Claim**

6 **Violation of Section 10(b) of The Exchange Act**

7 **and Rule 10b-5 Promulgated Thereunder**

8 **Against All Defendants**

9  
10 62. Plaintiff repeats and re-alleges each and every allegation contained  
11 above as if fully set forth herein.

12 63. During the Class Period, Defendants carried out a plan, scheme and  
13 course of conduct which was intended to and, throughout the Class Period, did: (i)  
14 deceive the investing public, including Plaintiff and other Class members, as  
15 alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase  
16 Silvergate's securities at artificially inflated prices. In furtherance of this unlawful  
17 scheme, plan and course of conduct, Defendants, and each defendant, took the  
18 actions set forth herein.

19 64. Defendants (i) employed devices, schemes, and artifices to defraud;  
20 (ii) made untrue statements of material fact and/or omitted to state material facts  
21 necessary to make the statements not misleading; and (iii) engaged in acts,  
22 practices, and a course of business which operated as a fraud and deceit upon the  
23 purchasers of the Company's securities in an effort to maintain artificially high  
24 market prices for Silvergate's securities in violation of Section 10(b) of the  
25 Exchange Act and Rule 10b-5. All Defendants are sued either as primary  
26 participants in the wrongful and illegal conduct charged herein or as controlling  
27 persons as alleged below.  
28

1           65. Defendants, individually and in concert, directly and indirectly, by the  
2 use, means or instrumentalities of interstate commerce and/or of the mails,  
3 engaged and participated in a continuous course of conduct to conceal adverse  
4 material information about Silvergate’s financial well-being and prospects, as  
5 specified herein.

6           66. Defendants employed devices, schemes and artifices to defraud, while  
7 in possession of material adverse non-public information and engaged in acts,  
8 practices, and a course of conduct as alleged herein in an effort to assure investors  
9 of Silvergate’s value and performance and continued substantial growth, which  
10 included the making of, or the participation in the making of, untrue statements of  
11 material facts and/or omitting to state material facts necessary in order to make the  
12 statements made about Silvergate and its business, operations, and future prospects  
13 in light of the circumstances under which they were made, not misleading, as set  
14 forth more particularly herein, and engaged in transactions, practices and a course  
15 of business which operated as a fraud and deceit upon the purchasers of the  
16 Company’s securities during the Class Period.

17           67. Each of the Individual Defendants’ primary liability and controlling  
18 person liability arises from the following facts: (i) the Individual Defendants were  
19 high-level executives and/or directors at the Company during the Class Period and  
20 members of the Company’s management team or had control thereof; (ii) each of  
21 these defendants, by virtue of their responsibilities and activities as a senior  
22 officer and/or director of the Company, was privy to and participated in the  
23 creation, development and reporting of the Company’s internal budgets, plans,  
24 projections and/or reports; (iii) each of these defendants enjoyed significant  
25 personal contact and familiarity with the other defendants and was advised of, and  
26 had access to, other members of the Company’s management team, internal  
27 reports and other data and information about the Company’s finances, operations,  
28

1 and sales at all relevant times; and (iv) each of these defendants was aware of the  
2 Company's dissemination of information to the investing public which they knew  
3 and/or recklessly disregarded was materially false and misleading.

4 68. Defendants had actual knowledge of the misrepresentations and/or  
5 omissions of material facts set forth herein, or acted with reckless disregard for the  
6 truth in that they failed to ascertain and to disclose such facts, even though such  
7 facts were available to them. Such defendants' material misrepresentations and/or  
8 omissions were done knowingly or recklessly and for the purpose and effect of  
9 concealing Silvergate's financial well-being and prospects from the investing  
10 public and supporting the artificially inflated price of its securities. As  
11 demonstrated by Defendants' overstatements and/or misstatements of the  
12 Company's business, operations, financial well-being, and prospects throughout  
13 the Class Period, Defendants, if they did not have actual knowledge of the  
14 misrepresentations and/or omissions alleged, were reckless in failing to obtain  
15 such knowledge by deliberately refraining from taking those steps necessary to  
16 discover whether those statements were false or misleading.

17 69. As a result of the dissemination of the materially false and/or  
18 misleading information and/or failure to disclose material facts, as set forth above,  
19 the market price of Silvergate's securities was artificially inflated during the Class  
20 Period. In ignorance of the fact that market prices of the Company's securities were  
21 artificially inflated, and relying directly or indirectly on the false and misleading  
22 statements made by Defendants, or upon the integrity of the market in which the  
23 securities trades, and/or in the absence of material adverse information that was  
24 known to or recklessly disregarded by Defendants, but not disclosed in public  
25 statements by Defendants during the Class Period, Plaintiff and the other members  
26 of the Class acquired Silvergate's securities during the Class Period at artificially  
27 high prices and were damaged thereby.  
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1 decision-making of the Company, including the content and dissemination of the  
2 various statements which Plaintiff contends are false and misleading. Individual  
3 Defendants were provided with or had unlimited access to copies of the Company's  
4 reports, press releases, public filings, and other statements alleged by Plaintiff to  
5 be misleading prior to and/or shortly after these statements were issued and had the  
6 ability to prevent the issuance of the statements or cause the statements to be  
7 corrected.

8 75. In particular, Individual Defendants had direct and supervisory  
9 involvement in the day-to-day operations of the Company and, therefore, had the  
10 power to control or influence the particular transactions giving rise to the securities  
11 violations as alleged herein, and exercised the same.

12 76. As set forth above, Silvergate and Individual Defendants each violated  
13 Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue  
14 of their position as controlling persons, Individual Defendants are liable pursuant to Section  
15 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct,  
16 Plaintiff and other members of the Class suffered damages in connection with their purchases of  
17 the Company's securities during the Class Period.

### 18 **PRAYER FOR RELIEF**

19 **WHEREFORE**, Plaintiff, prays for relief and judgment, as follows:

20 (a) Determining that this action is a proper class action under Rule 23 of  
21 the Federal Rules of Civil Procedure;

22 (b) Awarding compensatory damages in favor of Plaintiff and the other  
23 Class members against all Defendants, jointly and severally, for all damages  
24 sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial,  
25 including interest thereon;

26 (c) Awarding Plaintiff and the Class reasonable costs and expenses  
27 incurred in this action, including counsel fees and expert fees; and  
28

1 (d) Such other and further relief as the Court may deem just and proper.

2 **JURY TRIAL DEMANDED**

3 Plaintiff hereby demands a trial by jury.

4  
5 Dated: **THE ROSEN LAW FIRM, P.A.**

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