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12 **UNITED STATES DISTRICT COURT**
13
14 **DISTRICT OF ARIZONA**

15 Daniel Borteanu, Individually and on Behalf
of All Others Similarly Situated,

16
17 Plaintiff,

18 v.

19 Nikola Corporation; Trevor R. Milton; Steve
20 Girsky; Steve Shindler; Mark A. Russell;
21 and Kim J. Brady,

22 Defendants.
23
24

No.

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

CLASS ACTION

(DEMAND FOR JURY TRIAL)

25 Plaintiff Daniel Borteanu (“Plaintiff”), individually and on behalf of all other
26 persons similarly situated, by Plaintiff’s undersigned attorneys, alleges the following
27 based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and upon
28 information and belief as to all other matters based on the investigation conducted by and

1 through Plaintiff’s attorneys, which included, among other things, a review of U.S.
2 Securities and Exchange Commission (“SEC”) filings by Nikola Corporation (“Nikola”
3 or the “Company”), as well as media and analyst reports about the Company and Company
4 press releases. Plaintiff believes that substantial additional evidentiary support will exist
5 for the allegations set forth herein.

6 **NATURE OF THE ACTION**

7 1. Plaintiff brings this securities class action on behalf of persons who
8 purchased the securities of Nikola f/k/a VectoIQ Acquisition Corp. (“VectoIQ”) between
9 March 3, 2020 and September 15, 2020, inclusive (the “Class Period”). Plaintiff seeks to
10 recover compensable damages caused by Defendants’ violations of the federal securities
11 laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

12 **JURISDICTION AND VENUE**

13 2. The claims asserted herein arise under and pursuant to Sections 10(b) and
14 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated
15 thereunder by the SEC (17 C.F.R. § 240.10b-5).

16 3. This Court has jurisdiction over the subject matter of this action pursuant to
17 28 U.S.C. § 1331, and Section 27 of the Exchange Act (15 U.S.C. §78aa).

18 4. This Court has jurisdiction over each defendant named herein because each
19 defendant has sufficient minimum contacts with this judicial district so as to render the
20 exercise of jurisdiction by this Court permissible under traditional notions of fair play and
21 substantial justice. The Company is also headquartered in this district.

22 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and
23 Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged misstatements entered
24 and the subsequent damages took place in this judicial district and the Company is based
25 in this district.

26 6. In connection with the acts, conduct and other wrongs alleged in this
27 complaint, Defendants, directly or indirectly, used the means and instrumentalities of
28 interstate commerce, including but not limited to, the United States mails, interstate

1 telephone communications and the facilities of a national securities exchange. Defendants
2 disseminated the statements alleged to be false and misleading herein into this district, and
3 Defendants solicited purchasers of Nikola securities in this district.

4 **PARTIES**

5 7. Plaintiff, as set forth in the accompanying Certification, purchased the
6 Company's securities at artificially inflated prices during the Class Period and was
7 damaged upon the revelation of the alleged corrective disclosure.

8 8. Defendant Nikola purports to operate as an integrated zero emissions
9 transportation systems provider which designs and manufactures battery-electric and
10 hydrogen-electric vehicles, electric vehicle drivetrains, vehicle components, energy
11 storage systems, and hydrogen fueling station infrastructure. Defendant Nikola is
12 incorporated in Delaware and maintains its principal executive offices at 4141 E
13 Broadway Road, Phoenix, Arizona 85040. The merger of VectoIQ and Nikola closed on
14 June 3, 2020. The Company's shares are listed on NASDAQ under the ticker symbol
15 "NKLA" and formerly traded under the ticker symbol "VTIQ" until the merger in June
16 2020.

17 9. Defendant Trevor R. Milton ("Milton") is the founder of Nikola and
18 currently serves as the Company's Executive Chairman. Defendant Milton has over
19 100,000 Twitter followers for his account @nikolatrevor and tweets frequently about the
20 Company.

21 10. Defendant Steve Girsky ("Girsky") served as the Chief Executive Officer of
22 VectoIQ during the Class Period until the merger in June 2020. Following the merger,
23 Defendant Girsky has served as a Director of Nikola.

24 11. Defendant Steve Shindler ("Shindler") served as the Chief Financial Officer
25 of VectoIQ during the Class Period until the merger in June 2020.

26 12. Defendant Mark A. Russell ("Russell") has served as the Chief Executive
27 Officer of Nikola since June 2020 and as the President of Nikola since February 2019.
28 Defendant Russell is also a Director of Nikola.

1 13. Defendant Kim J. Brady (“Brady”) has served as the Chief Financial Officer
2 of Nikola since November 2017.

3 14. Defendants Milton, Girsky, Shindler, Russell, and Brady are collectively
4 referred to herein as the “Individual Defendants.”

5 15. Each of the Individual Defendants:

6 (a) directly participated in the management of the Company;

7 (b) was directly involved in the day-to-day operations of the Company
8 at the highest levels;

9 (c) was privy to confidential proprietary information concerning the
10 Company and its business and operations;

11 (d) was directly or indirectly involved in drafting, producing, reviewing
12 and/or disseminating the false and misleading statements and information alleged herein;

13 (e) was directly or indirectly involved in the oversight or implementation
14 of the Company’s internal controls;

15 (f) was aware of or recklessly disregarded the fact that the false and
16 misleading statements were being issued concerning the Company; and/or

17 (g) approved or ratified these statements in violation of the federal
18 securities laws.

19 16. The Company is liable for the acts of the Individual Defendants and its
20 employees under the doctrine of *respondeat superior* and common law principles of
21 agency because all of the wrongful acts complained of herein were carried out within the
22 scope of their employment.

23 17. The scienter of the Individual Defendants and other employees and agents
24 of the Company is similarly imputed to the Company under *respondeat superior* and
25 agency principles.

26 18. The Company and the Individual Defendants are referred to herein,
27 collectively, as the “Defendants.”
28

SUBSTANTIVE ALLEGATIONS

Materially False and Misleading Statements

19. On March 3, 2020, Nikola issued a press release, attached to VectoIQ's 8-K filing with the SEC the same day, entitled "Nikola Corporation, a Global Leader in Zero Emissions Transportation Solutions, to Be Listed on NASDAQ Through a Merger With VectoIQ" which quoted Defendants Milton and Grisky stating the following, in relevant part, regarding the Company's capabilities:

Trevor Milton, Founder and CEO of Nikola stated: "*We are on a roll. You couldn't ask for better news for the energy and tech industry.* The world is transitioning to zero emission platforms and Nikola is the leader for heavy duty vehicles. We believe we have a differentiated business model built on economics, not government subsidies. We now need to double down and speed up the timelines and get to market. We couldn't be happier to have Steve Grisky join our board."

"*In our two-year quest to find a partner that was a proven technology leader* and focused on making a global difference, Nikola was the clear winner," said Stephen Grisky, CEO of VectoIQ and former Vice Chairman of General Motors Corporation. "*Nikola's vision of a zero-emission future and ability to execute were key drivers in our decision.*"

(Emphasis added.)

20. In connection with the merger announcement, Nikola released an investor presentation on March 3, 2020, attached to VectoIQ's 8-K filing with the SEC the same day, which, among other things, included the following slides, which touted Defendant Milton's experience in the clean energy and technology field and the Company's hydrogen production capabilities:

. . .
. . .
. . .

KEY LEADERSHIP



Trevor Milton

Nikola
CEO

- Visionary leader with passion for innovation and disruption
- Directs research, development and prototype assembly of the Nikola portfolio
- Holds a controlling interest in the Company
- Prior to Nikola, Trevor was the CEO of eHybrid Systems, LLC, a natural gas storage technology company that was acquired by Worthington Industries, Inc.

Mark Russell

Nikola
President

- Over 20 years of experience building and managing companies in the manufacturing industry
- Served as president and COO of Worthington Industries (NYSE:WOR) from 2012-2018
- Previously served as GM of Engineered Aerospace Products at Alcoa, Inc (NYSE:AA)
- Education: BS from Weber State University and JD from Brigham Young University

Kim Brady

Nikola
CFO

- Over 20 years of experience in private equity and investment banking
- Served as Sr. Managing Director at Solic Capital
- Previously served as CFO and GM for various companies in manufacturing, business services, and healthcare
- Education: BS from Brigham Young University and MBA from Northwestern's Kellogg Graduate School of Management

Steve Girsky

VectoIQ Acquisition Corp
CEO

- 30 years of experience working with corporate board executives, labor leaders, OEM leaders, suppliers, dealers, and national policy makers
- Institutional Investor top-ranked auto analyst for many years
- Former GM Vice Chairman; helped lead GM out of bankruptcy, stabilized its European operations and led overall GM strategy
- Current and former public boards:



1. Trevor Milton to assume Executive Chairman role, Mark Russell to assume Chief Executive Officer role and Steve Girsky to join Nikola board post-closing

STATION INFRASTRUCTURE AND DEVELOPMENT

Partnered with NEL to develop first-in-kind hydrogen station infrastructure

NIKOLA DEMO STATION DEVELOPMENT

Demo Station: Nikola HQ (Phoenix, AZ)

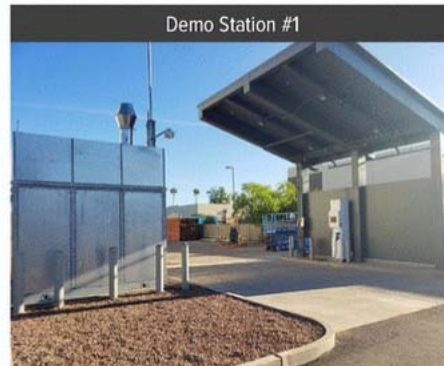
- **Station Timing:** completed Q1 2019
- **Station Offers:** H₂ storage and dispensing
- **Other:** onsite storage 1,000 kg

R&D 8-Ton Station: R&D Facility (Phoenix, AZ)

- **Station Timing:** begin Q2 2020, complete by Q4 2021
- **Station Offers:** H₂ production, storage, and dispensing
- **Other:** (8) 1-ton electrolyzers onsite capable of producing 8,000 kgs of hydrogen per day

AB 8-Ton Pilot Station: Van Nuys, CA

- **Station Timing:** begin Q4 2020, complete by mid-2022
- **Station Offers:** H₂ production, storage, and dispensing
- **Other:** (8) 1-ton electrolyzers onsite capable of producing 8,000 kgs of hydrogen per day



1 21. On March 6, 2020, VectoIQ filed its yearly report on Form 10-K with the
2 SEC for the quarter ended December 31, 2019 (the “2019 Annual Report”). The 2019
3 Annual Report was signed by Defendants Girsky and Shindler. Attached to the 2019
4 Annual Report, via a 10-K/A filed April 15, 2020, were certifications pursuant to the
5 Sarbanes-Oxley Act of 2002 (“SOX”) signed by Defendants Girsky and Shindler attesting
6 to the accuracy of the financial statements and the disclosure of all fraud.

7 22. The 2019 Annual Report stated that its “Business Combination Criteria”
8 was as follows:

9 Consistent with our strategy, we have identified the following general criteria
10 and guidelines that we believe are important in evaluating prospective target
11 businesses and, in evaluating a prospective target business, *we expect to*
12 *conduct a thorough due diligence review that will encompass, among other*
13 *things, meetings with incumbent management and employees, document*
14 *reviews and inspection of facilities, as applicable, as well as a review of*
15 *financial and other information that will be made available to us.* We
16 intend to use these criteria and guidelines in evaluating acquisition
opportunities, but we may decide to enter into our initial business
combination with a target business that does not meet these criteria or
guidelines.

17 · Focus on industrial technology, transportation and smart mobility business
18 positioned to benefit from our management team's extensive experience and
19 contacts in these sectors. We believe our strategy leverages our management
20 team's distinctive background and vast network of industry leaders in the
21 target industry.

22 · Emphasis on companies that can benefit from a public listing and access to
23 the public capital markets. We will primarily seek a target that we believe
24 will benefit from being publicly traded and will be able to effectively utilize
25 the broader access to capital and the public profile that are associated with
26 being a publicly traded company.

27 · *We will target businesses that are market leaders, with established*
28 *technologies* and attractive financial metrics and/or prospects, where we
believe that our industry expertise and relationships can be used to create
opportunities for value creation, whether for acquisitions, capital investments
in organic growth opportunities or in generating greater operating
efficiencies. While this may include business with a history of revenue
growth and profitability, we may also target businesses that are

1 underperforming that that we believe can benefit from our expertise and/or
2 technology.

3 · *We intend to seek target businesses that have established management*
4 *teams*, but that we believe could benefit from the industry experience and
5 contacts of our management. . . .

6 These criteria are not intended to be exhaustive. Any evaluation relating to
7 the merits of a particular initial business combination may be based, to the
8 extent relevant, on these general guidelines as well as other considerations,
9 factors and criteria that our management team may deem relevant. *In the*
10 *event that we decide to enter into our initial business combination with a*
11 *target business that does not meet the above criteria and guidelines, we will*
12 *disclose that the target business does not meet the above criteria in our*
13 *stockholder communications related to our initial business combination,*
14 *which, would be in the form of proxy solicitation materials or tender offer*
15 *documents that we would file with the SEC.*

16 (Emphasis added.)

17 23. The 2019 Annual Report also stated the following regarding the “Selection
18 of a Target Business and Structuring of a Business Combination”:

19 *In evaluating a prospective target business, our management may consider*
20 *a variety of factors, including one or more of the following:*

- 21 · *financial condition and results of operation;*
22 · growth potential;
23 · brand recognition and potential;
24 · *experience and skill of management* and availability of additional
25 personnel;
26 · capital requirements;
27 · competitive position;
28 · barriers to entry;
· stage of development of the products, processes or services;
· existing distribution and potential for expansion;
· *degree of current or potential market acceptance of the products,*
processes or services;
· *proprietary aspects of products and the extent of intellectual property or*
other protection for products or formulas;
· impact of regulation on the business;
· regulatory environment of the industry;
· costs associated with effecting the business combination;

1 · *industry leadership, sustainability of market share and attractiveness of*
2 *market industries in which a target business participates*; and
3 · macro competitive dynamics in the industry within which the company
4 competes.

5 These criteria are not intended to be exhaustive. Any evaluation relating to
6 the merits of a particular business combination will be based, to the extent
7 relevant, on the above factors as well as other considerations deemed relevant
8 by our management in effecting a business combination consistent with our
9 business objective. *In evaluating a prospective target business, we will*
10 *conduct an extensive due diligence review which will encompass, among*
11 *other things, meetings with incumbent management and inspection of*
12 *facilities, as well as review of financial and other information which is*
13 *made available to us.* This due diligence review will be conducted either by
14 our management or by unaffiliated third parties we may engage, although we
15 have no current intention to engage any such third parties.

16 (Emphasis added.)

17 24. On March 13, 2020, VectoIQ filed with the SEC a prospectus on Form S-4
18 signed by Defendants Milton and Girsky. On April 15, 2020, May 1, 2020, and May 5,
19 2020, VectoIQ filed revised versions of the prospectus for the merger on Forms S-4/A.
20 On May 8, 2020, VectoIQ issued a Proxy Statement with the SEC on Form 424(b)(3)
21 which was signed by Defendants Milton and Girsky. The Proxy Statement stated the
22 following as “VectoIQ’s Board of Directors’ Reasons for Approval of the Business
23 Combination”:

24 As described under "The Background of the Business Combination" above,
25 VectoIQ's board of directors, in evaluating the Business Combination,
26 consulted with VectoIQ's management and financial and legal advisors. In
27 reaching its unanimous decision to approve the Business Combination
28 Agreement and the transactions contemplated by the Business Combination
Agreement, VectoIQ's board of directors considered a range of factors,
including, but not limited to, the factors discussed below. In light of the
number and wide variety of factors considered in connection with its
evaluation of the combination, VectoIQ's board of directors did not consider
it practicable to, and did not attempt to, quantify or otherwise assign relative
weights to the specific factors that it considered in reaching its determination
and supporting its decision. VectoIQ's board of directors viewed its decision
as being based on all of the information available and the factors presented

1 to and considered by it. In addition, individual directors may have given
2 different weight to different factors.

3 This explanation of VectoIQ's reasons for the combination and all other
4 information presented in this section is forward-looking in nature and,
5 therefore, should be read in light of the factors discussed under the section
6 titled "Cautionary Note Regarding Forward-Looking Statements."

7 In approving the combination, VectoIQ's board of directors determined not
8 to obtain a fairness opinion. The officers and directors of VectoIQ have
9 substantial experience in evaluating the operating and financial merits of
10 companies from a wide range of industries and concluded that their
11 experience and background, together with experience and sector expertise of
12 Cowen, enabled them to make the necessary analyses and determinations
13 regarding the Business Combination.

14 VectoIQ's board of directors considered a number of factors pertaining to the
15 Business Combination as generally supporting its decision to enter into the
16 Business Combination Agreement and the transactions contemplated
17 thereby, including, but not limited to, the following:

18 • ***Highly Disruptive Technology.*** *VectoIQ's management and board of*
19 *directors believe that Nikola is a market disruptor* in an attractive and
20 growing industry with over 70 patents issued or pending and strong growth
21 prospects within the hydrogen fuel, BEV and FCEV sectors as well as
22 adjacent markets;

23 • **Strategic Partnerships.** VectoIQ's management and board of directors
24 considered Nikola's strategic partnerships with industry leaders, which it
25 believes reduce Nikola's technology and execution risk from truck and
26 hydrogen station development to truck sales and maintenance;

27 • **High Demand for Product.** VectoIQ's management and board of directors
28 considered the fact that Nikola has a high volume of fuel cell electric vehicle
pre-orders, currently at over \$10 billion, as well as contracts with top tier
customers with investment-grade credit ratings;

• **Platform Supports Further Growth Initiatives.** VectoIQ's management and
board of directors believe that Nikola's business model uniquely supplies
both the truck and hydrogen fueling infrastructure, solving the fleets'
concerns as to where to refuel with green hydrogen at competitive pricing to
diesel;

1 • ***Due Diligence.*** *VectoIQ's management and board of directors conducted*
2 *due diligence examinations of Nikola and discussions with Nikola's*
3 *management and VectoIQ's financial and legal advisors concerning*
4 *VectoIQ's due diligence examination of Nikola;*

5 • **Financial Condition.** VectoIQ's board of directors also considered factors
6 such as Nikola's outlook, financial plan and debt structure, as well as
7 valuations and trading of publicly traded companies and valuations of
8 precedent combination and combination targets in similar and adjacent
9 sectors (see "—Certain Nikola Projected Financial Information");

10 • **Attractive Market Valuation of Comparable Companies.** The public trading
11 market valuation of comparable "future transportation" companies
12 (consisting of NIO, Tesla and Virgin Galactic, which we refer to collectively
13 as the "Comparable Future Transportation Companies") have expected 2020
14 enterprise value/revenue multiples and enterprise value/EBITDA multiples
15 (in each case based on market data as of February 28, 2020) ranging from
16 3.3x to 650+x (and a median of 4.0x) and up to 29.5x, respectively. The
17 public trading market valuation of comparable fuel cell technology
18 companies (consisting of Ballard, Bloom Energy, Nel and Plug Power, which
19 we refer to collectively as the "Comparable Fuel Cell Technology
20 Companies") have expected 2020 enterprise value/revenue multiples and
21 enterprise value/EBITDA multiples (in each case based on market data as of
22 February 28, 2020) ranging from 1.7x to 14.7x (and a median of 9.5x) and
23 up to 77.3x (and a median of 47.8x), respectively. . . . For example, when
24 applying the median 2020 enterprise value/revenue multiple for the
25 Comparable Fuel Cell Technology Companies of 9.5x to Nikola's 2024
26 projected revenue, the initial market valuation of the post-Business
27 Combination company implies a 67.6% annual discount rate from December
28 31, 2024 to June 30, 2020. Since Nikola's business is not expected to achieve
scale until 2024, the VectoIQ board of directors believes this present value
methodology is the most reasonable method of comparison. Although this
analysis is based on the current Nikola projections, the valuation multiples
decline each year as a result of the high growth projected for Nikola's
business;

29 • ***Experienced and Proven Management Team.*** *VectoIQ's management*
30 *and board of directors believe that Nikola has a strong management team*
31 *which is expected to remain with the combined company to seek to execute*
32 *Nikola's strategic and growth goals;*

(Emphasis added.)

1 25. The Proxy Statement also stated the following, in pertinent part, regarding
2 Nikola's hydrogen production capabilities and VectoIQ's due diligence:

3 Q. Who is Nikola?

4
5 A. Nikola is a vertically integrated zero-emissions transportation solution
6 provider ***that designs and manufactures state-of-the-art battery-electric***
7 ***and hydrogen fuel cell electric vehicles, electric vehicle drivetrains, energy***
8 ***storage systems, and hydrogen fueling stations***. Nikola's core product
9 offering is centered around its battery-electric vehicle ("BEV") and hydrogen
10 fuel cell electric vehicle ("FCEV") Class 8 semi-trucks. The key
11 differentiator of Nikola's business model is its planned network of hydrogen
12 fueling stations. Nikola is offering a revolutionary bundled lease model,
13 which provides customers with the FCEV truck, hydrogen fuel, and
14 maintenance for a fixed price per mile, locks in fuel demand and significantly
15 de-risks infrastructure development. See "Information About Nikola."

12 * * *

13
14 ***During the week of November 25, 2019, members of the management***
15 ***teams from both companies met at Nikola's' headquarters in Phoenix,***
16 ***Arizona to enable VectoIQ's management to learn more about Nikola's***
17 ***current and planned business***. Throughout the week the management teams
18 also held calls to discuss scheduling for continued due diligence meetings as
19 well as a timeline for a potential combination. During this period, VectoIQ
20 assembled a number of industry experts to advise with respect to vehicle
21 development, electrification, fuel cells, software, connectivity and
22 manufacturing in connection with its due diligence efforts.

23
24 During the week of December 2, 2019, representatives of VectoIQ and
25 Nikola held a technical due diligence call and VectoIQ had discussions with
26 industry experts on commercial conditions in the Class 8 Hydrogen and
27 Electrification markets.

28 * * *

29 ***First Test Station Installed at Nikola's Phoenix HQ***

30 Through our partnership with Nel ASA, a Norwegian hydrogen company
31 ("Nel"), we have initiated the development of the hydrogen station
32 infrastructure ***by completing our first 1,000 kg demo station in the first***
33 ***quarter of 2019 at our corporate headquarters in Phoenix, Arizona. The***

1 *demo hydrogen station offers hydrogen storage and dispensing and serves*
2 *as a model for future hydrogen stations.*

3 * * *

4 **1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION**

5 *Nikola Corporation ("Nikola" or the "Company") is a designer and*
6 *manufacturer of battery-electric and hydrogen-electric vehicles, electric*
7 *vehicle drivetrains, vehicle components, energy storage systems, and*
8 *hydrogen stations.*

9 The Company is also developing a network of hydrogen fueling stations to
10 meet hydrogen fuel demand for its customers. *Fueling related activities will*
11 *be conducted through the Company's wholly-owned subsidiary, Nikola*
12 *Energy.*

12 (Emphasis added.)

13 26. The Proxy Statement stated the following, in pertinent part, regarding
14 Nikola's "in-house" designing, manufacturing, and testing capabilities:

15 In June 2019, Nikola moved into our state-of-the-art headquarters and R&D
16 facility in Phoenix, Arizona, which consists of more than 150,000 square feet
17 and where *we are capable of designing, building, and testing prototype*
18 *vehicles in-house.*

19 (Emphasis added.)

20 27. The Proxy Statement touted Defendant Milton's experience and abilities,
21 stating the following as a risk, in pertinent part:

22 *We are highly dependent on the services of Trevor R. Milton, our Chief*
23 *Executive Officer.*

24 We are highly dependent on the services of Trevor R. Milton, Chief
25 Executive Officer, and largest stockholder. *Mr. Milton is the source of*
26 *many, if not most, of the ideas and execution driving Nikola.* If Mr. Milton
27 were to discontinue his service to us due to death, disability or any other
28 reason, we would be significantly disadvantaged.

28 (Emphasis added.)

1 28. On May 15, 2020, Defendant Milton tweeted the following regarding
2 Nikola's capabilities:

3 I laugh when articles say Nikola is all talk. 300+ mile battery and 500+ mile
4 fuel cell to be produced by @nikolamoto& @IVECO. ***These are real. Our
5 tech is years ahead.*** Production starts next year & Factory being prepped
6 now in Germany. Watch while others follow the boss. [Emoji and images
7 omitted.]
8 <https://twitter.com/nikolatrevor/status/1261306736528388098>.

(Emphasis added.)

9 29. On June 6, 2020, Defendant Milton tweeted the following regarding
10 Nikola's in-house capabilities: "***All the technology, software, controls, E axle, inverters
11 etc we do internally.*** We joint venture with those that know the supply chain and
12 manufacturing like Iveco. ***We outsource autonomy. We outsource hardware
13 production.***" <https://twitter.com/nikolatrevor/status/1269255746434158599>. (Emphasis
14 added.)

15 30. On July 1, 2020, Defendant Milton tweeted the following regarding Nikola's
16 in-house capabilities:

17 We don't make the cells. We make the entire pack like the top guys do. We
18 do have an OEM making our truck but ***all internals are Nikola's IP;
19 batteries, inverters, software, ota, infotainment, controls, etc. We own it
20 all in house. Just not the plant to build the truck***
<https://twitter.com/nikolatrevor/status/1278362710074220544>.

(Emphasis added.)

21 31. On July 5, 2020, Defendant Milton tweeted the following regarding Nikola's
22 in-house capabilities stating:
23

24 "I'm talking about stuff that has no value; cabs, windows, seats or seat belts or
25 ac units. ***All major components are done in house; batteries, inverters,
26 software, controls,infotainment, over the air, etc, you don't care about
27 the truth you're just out to be a keyboard warrior.***"
<https://twitter.com/nikolatrevor/status/1279673731435159556>.

1 (Emphasis added.)

2 32. On July 15, 2020, Defendant Milton tweeted a video and the following:

3 0-60 in under 5 seconds in the #nikolatwo hydrogen semi truck. Damn
4 that was fast! . *Edited / professional content coming soon for everyone*
5 *but here's my raw cell phone behind the scene.* <https://twitter.com/nikola-trevor/status/1283425947199221761?s=20>.

6 *Yeah, we'll be posting Go Pro video that's being edited, etc . Be up soon*
7 *showing 0-60 camera time, outside view and also side by side against a diesel*
8 *truck. This is just a teaser shot* <https://twitter.com/nikolatrevor/status/1283429144970158080>.

9 *Actually around 5 seconds. That's 10 seconds to hit 60 and slow down.*
10 *Around that time, exact timing to be shown in the edited videos coming out*
11 *next month.* Side by side diesel comparison, etc. <https://twitter.com/nikolatrevor/status/1283430654395314176>.

12 (Emphasis added.)

13 (Emphasis added.)
14 33. On July 22, 2020, Defendant Milton tweeted the following regarding
15 Nikola's Tre model trucks:

16 We break ground on our factory tomorrow. *We have 5 units coming off*
17 *assembly line now in Ulm Germany.* We will be first to market with 300+
18 mile BEV. Say something nice, do your research or don't comment. [Emoji
19 omitted.] <https://twitter.com/nikolatrevor/status/1285999780473135104/>

20 We are breaking ground on our factory tomorrow bud. *5 Units coming off*
21 *assembly lines in Germany for testing* and we'll be first to market with a
22 300+ mile BEV. At least be objective. Give props when due.
<https://twitter.com/nikolatrevor/status/1286008500443701248>.

23 (Emphasis added.)

24 34. On August 4, 2020, Nikola filed its quarterly report on Form 10-Q with the
25 SEC for the quarter ended June 30, 2020 (the "2Q20 Report"). The 2Q20 Report was
26 signed by Defendants Russell and Brady. Attached to the 2019 Annual Report were
27 certifications pursuant to SOX signed by Defendants Russell and Brady attesting to the
28 accuracy of the financial statements and the disclosure of all fraud.

1 35. The 2Q20 Report touted Defendant Milton's experience and abilities,
2 stating the following as a risk, in pertinent part:

3 ***We are highly dependent on the services of Trevor R. Milton, our Executive***
4 ***Chairman.***

5 We are highly dependent on the services of Trevor R. Milton, our Executive
6 Chairman, and largest stockholder. ***Mr. Milton is the source of many, if not***
7 ***most, of the ideas and execution driving Nikola.*** If Mr. Milton were to
8 discontinue his service to us due to death, disability or any other reason, we
would be significantly disadvantaged.

9 (Emphasis added.)

10 36. The 2Q20 Report stated the following, in pertinent part, regarding the
11 Company's hydrogen capabilities:

12 **Overview**

13 ***We are a vertically integrated zero emissions transportation systems***
14 ***provider that designs and manufactures state of the art battery electric and***
15 ***hydrogen electric vehicles, electric vehicle drivetrains, energy storage***
16 ***systems, and hydrogen fueling stations.*** To date, we have been primarily
17 focused on delivering zero emission Class 8 trucks to the commercial
18 transportation sector in the U.S. and in Europe. Our core product offering
includes battery electric and hydrogen fuel cell electric trucks and hydrogen
fuel.

19 (Emphasis added).

20 37. On August 13, 2020, Defendant Milton tweeted the following regarding
21 Nikola's hydrogen production capabilities: ***"We currently make our own green H2 for***
22 ***under \$4/kg.*** We are open to others down the road but we have our stations going up and
23 need to focus on completing ours first. Then we can work with others as we expand."
24 <https://twitter.com/nikolatrevor/status/1294075433407791104>.

25 38. The statements referenced in ¶¶ 19-37 above were materially false and/or
26 misleading because they misrepresented and failed to disclose the following adverse facts
27 pertaining to the Company's business, operational and financial results, which were
28

1 known to Defendants or recklessly disregarded by them. Specifically, Defendants made
 2 false and/or misleading statements and/or failed to disclose that: (1) VectoIQ did not
 3 engage in proper due diligence regarding its merger with Nikola; (2) Nikola overstated its
 4 “in-house” design, manufacturing, and testing capabilities; (3) Nikola overstated its
 5 hydrogen production capabilities; (4) as a result, Nikola overstated its ability to lower the
 6 cost of hydrogen fuel; (5) Defendant Milton tweeted a misleading “test” video of the
 7 Company’s Nikola Two truck; (6), the work experience and background of key Nikola
 8 employees, including Defendant Milton, had been overstated and obfuscated; (7) Nikola
 9 did not have five Tre trucks completed; and (8) as a result, Defendants’ public statements
 10 were materially false and/or misleading at all relevant times.

11 THE TRUTH EMERGES

12 39. On September 10, 2020, before market hours, Hindenburg Research
 13 published a report (the “Report”) describing, among other things, how: (i) the Company
 14 claims to design key components in house, but they appear to simply be buying or
 15 licensing them from third-parties; (ii) the Company has not produced hydrogen; (iii) a
 16 spokesman for Powercell AB, a hydrogen fuel cell technology company that formerly
 17 partnered with Nikola, called Nikola’s battery and hydrogen fuel cell claims “hot air”; (iv)
 18 Nikola staged a “test” video for its Nikola Two; (v) some of Nikola’s team, including
 19 Defendant Milton, are not experts and do not have relevant experience; and (vi) Nikola
 20 did not have five Tre trucks completed.

21 40. The Report alleged that the Company overstated its “in-house” design,
 22 manufacturing, and testing capabilities, stating, in pertinent part:

23 Trevor claims Nikola designs all key components in house, but *they appear*
 24 *to simply be buying or licensing them from third-parties. One example: we*
 25 *found that Nikola actually buys inverters from a company called Cascadia.*
 26 *In a video showing off its “in-house” inverters, Nikola concealed the*
Cascadia label with a piece of masking tape.

27 * * *

1 *Despite regularly claiming to develop almost everything in-house, Nikola*
2 *quietly outsourced the NZT redesign to a small company called Stellar*
3 *Strategy LLC* (<https://stellarstrategyllc.com/>). Stellar is staffed by former
4 executives of Polaris (<https://offroad.polaris.com/en-us/>), a well-known
5 producer of off-road vehicles who had advised Nikola on the open cabin
6 version.

6 * * *

7 **Trevor Milton in 2020: We Make All Our Inverters In-House**
8 **Reality: Nikola Buys Inverters from a Third-Party Supplier. A July**
9 **Video Shows the Inverter, but the Label of the Manufacturer is Covered**
10 **with Masking Tape**

11 After the critical Bloomberg article (<https://www.bloomberg.com/news/articles/2020-06-17/nikola-s-founder-exaggerated-the-capability-of-hisdebut-truck>), it seemed there was an undercurrent of skepticism that Trevor
12 became obsessed with countering.

13 Nikola had always made claims that its components were developed in-
14 house, dating back to Nikola’s first press release (https://nikolamotor.com/press_releases/nikola-motor-company-formed-to-transform-u-s-transportation-industry-25) on May 9, 2016:

15 “The **majority** of the semi-trucks components **are being developed by**
16 **Nikola.**”

17 * * *

18 *When people would ask skeptically what Nikola had ever*
19 *actually developed, Trevor would respond with a list of components such as*
20 *batteries and inverters made in-house.* See examples, here
21 (<https://twitter.com/laurisyrjaniemi/status/1269176058768752640>), here
22 (<https://twitter.com/moonwalk19691/status/1278359414811099136>) and
23 here (<https://twitter.com/IsaacTaub56/status/1279654385686102016>):

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Trevor later attempted to counter skeptics by showing videos of the two prototype trucks that had been built with partner Bosch, suggesting that this somehow disproved the allegation that the earlier truck he built had never been finished.

In one such video, on July 14th, 2020 (<https://www.youtube.com/watch?v=7C2LDmkEmP0>), Trevor walks viewers through the Powertrain for the Nikola Two. At the 29:30 (<https://youtu.be/7C2LDmkEmP0?t=1770>) mark Trevor begins describing the in-house inverters and how other OEMs are asking to use Nikola’s proprietary inverter tech:

“We do all the e-axle design in house. All the gears, the gear reductions. The thermal the cooling. Even the controls that go with it. **And, also, the inverters as well. All inverters on the Nikola truck are probably some of the most advanced software systems that I know of anywhere in the automotive world.** Why do I know that? It’s because other OEMs are asking us to use it.”

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At the 7:02 mark (<https://youtu.be/7C2LDmkEmP0?t=422>), we can see the inverters up close. There is a relatively inconspicuous green piece of masking tape on the component:



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Here it is up close:



The inverter is not proprietary to Nikola. Cascadia Motion, a small company in Portland, offers such inverters off the shelf (<https://cascadiamotion.com/images/catalog/DataSheets/RM300.pdf>). The tape is covering the label which would normally show the product description and other specifications that make clear who built the component:

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We texted a sales engineer for Cascadia and asked if the model was available to the public or if it was a customer specific model, and they confirmed that it was for sale to the public.

This follows the same pattern. Nikola has regularly used off-the-shelf products from third parties, while claiming to have vast internal proprietary technology and to “design” all the products itself. It then partners with companies that actually have the components Nikola claimed to have already developed internally.

(Emphasis added.)

1 41. The Report alleged that the Company overstated its hydrogen production
2 capabilities and its ability to cost costs of hydrogen fuel, stating, in pertinent part:

3 *A spokesman for Volvo spin-off Powercell AB, a hydrogen fuel cell*
4 *technology company that formerly partnered with Nikola, called Nikola's*
5 *battery and hydrogen fuel cell claims "hot air"*

6 Inexpensive hydrogen is fundamental to the success of Nikola's business
7 model. Trevor has claimed in a presentation to hundreds of people and in
8 multiple interviews to have succeeded at cutting the cost of hydrogen by
9 ~81% compared to peers and to *already be producing hydrogen. Nikola has*
10 *not produced hydrogen at this price or at any price* as he later admitted
11 when pressed by media.

12 Trevor has appointed his brother, Travis, as "Director of Hydrogen
13 Production/Infrastructure" to oversee this critical part of the business.
14 Travis's prior experience looks to have largely consisted of pouring concrete
15 driveways and doing subcontractor work on home renovations in Hawaii.

16 * * *

17 **2020: Trevor Claimed Nikola Produces Hydrogen for Under \$3/kg,**
18 **~81% Cheaper Than the Rest of The World, Representing a Major**
19 **Breakthrough**

20 The high cost of hydrogen, among other issues, has prevented it from
21 becoming a mainstream fuel source for alternative energy vehicles. The high
22 price tag results from both the cost to isolate hydrogen and the cost of
23 building production facilities/transmission.

24 Low-cost hydrogen production is critical to Nikola's financial viability, as
25 Nikola's hydrogen long haul truck sales would rely on a working network of
26 hydrogen stations. Nikola's much anticipated fuel cell pickup truck's
27 existence also hinges ([https://insideevs.com/news/435512/trevor-
28 miltonnikola-badgers-details-sales-operation/](https://insideevs.com/news/435512/trevor-miltonnikola-badgers-details-sales-operation/)) on a hydrogen station roll out.

 * * *

 In an August 2020 interview (<https://www.youtube.com/watch?v=nbrgQj4xlbk>) with Fox Business News, when asked about hydrogen, Trevor says:

1 “We saw an opportunity to bring the cost of hydrogen down going zero-
2 emission and putting it on parity with diesel, and it’s the first time in history
3 that’s been able to be done, **so it went from about \$16/kg and we are down**
4 **now below \$4/kg.** And there’s a lot of reasons for that, but the main one is
5 standardization of a hydrogen station worldwide has allowed us to drive that
6 cost down dramatically. **We tell people we’re an energy technology**
7 **company that happens to build really cool vehicles.”**

8 In another interview on July 17, 2020, on the TeslaCharts podcast, Trevor
9 claimed Nikola has been able to “chop the cost of hydrogen from \$16/kg
10 down to – we’re down below \$3/kg on our hydrogen now.”[1] [11:34
11 (<https://feeds.buzzsprout.com/758369/4605602-episode-35-trevormilton?play=true>)]. This would mark an astonishing 81.25% reduction in the cost of
12 hydrogen.

13 When challenged again about Nikola’s hydrogen production cost by the
14 TeslaCharts podcast host [25:00 (<https://feeds.buzzsprout.com/758369/4605602-episode-35-trevor-milton?play=true>)], Trevor repeats the question,
15 compliments the host on asking the question, claims he has “so much
16 experience” with answering the question, says he “knows the stuff better than
17 anyone he has ever encountered” and says he has spent “7 years” driving the
18 cost of hydrogen down.

19 But he then admits that many of the “changes” in the hydrogen world he has
20 seen are “not so much on the technology side” and that Nikola has “seen
21 maybe a 5% or 10% increase in efficiency across the board” in hydrogen
22 technology. But that’s “not what changes the world,” Trevor says.

23 After providing an anecdote about his father, and offering some other
24 sidetrack discussion, **he then admits that Nikola’s entire answer to**
25 **bringing down the cost was to simply standardize a hydrogen station.**
26 “The standardization of the hydrogen station was the most important aspect,”
27 Trevor says.

28 Such standardization would clearly bring costs down, but Nikola already
claimed to have accomplished the feat without having a single *production*
facility of its own.

When Pressed on the Subject in July 2020, Trevor Acknowledged Nikola Produces No Hydrogen at All. The Claims Made at Nikola World and In Multiple Interviews Were, Once Again, Completely Fictitious

1 In a subsequent interview on July, 2020 ([https://www.linkedin.com/pulse/
2 interview-trevor-milton-founder-executive-chairman-nikolameckmann/
3 trackingId=nIXxnt4u0GFFIunPZCD9Uw%3D%3D](https://www.linkedin.com/pulse/interview-trevor-milton-founder-executive-chairman-nikolameckmann/?trackingId=nIXxnt4u0GFFIunPZCD9Uw%3D%3D)), when pressed about
4 hydrogen production, Trevor acknowledged producing no hydrogen at all:

5 **Trevor:**

6 **“The station is designed to store and pump about 1,000 kg’s per day.
7 Electrolyzers are going in now and should be operational with zero
8 emission solar production by Nikola World 2020. We have 2.5
9 megawatts of solar going up now at the facility. The station functions
10 now, but we do not sell it to the public.”**

11 Interviewer:

12 **“OK, so for the record: You’re currently producing no hydrogen but
13 you’re planning to produce 1 metric ton/day using 100% solar energy by the
14 end of the year? What are you going to use it for by then?”**

15 **Trevor:**

16 **“The permitting process of producing hydrogen takes much longer than
17 storing and pumping it. We spent the last year building the largest
18 hydrogen station in the western world in Phoenix, AZ at our HQ. Now
19 we will spend the next 5 months installing the hydrogen production
20 (Electrolyzers, Power Electronics, Thermal, Etc.) into that station.”**

21 We found the admission to be unsurprising when we learned who was in
22 charge of Nikola’s efforts to develop and roll out its supposedly
23 revolutionary hydrogen production capabilities.

24 (Emphasis added.)

25 42. The Report alleged that the Company overstated its key employee’s
26 expertise and experience, stating, in pertinent part:

27 **Nikola’s Director of Hydrogen Production/Infrastructure Is Trevor
28 Milton’s Little Brother, Who Worked Paving Driveways in Hawaii Prior
To Joining at Nikola**

Given the complicated nature of hydrogen, we wanted to look closer into the
resumes of who Nikola has put in charge of such a critical and dangerous
aspect of their business.

1 We expected to find that Nikola had hired a world-renowned scientist to
2 lead its revolutionary hydrogen efforts. Instead, it appears Nikola
3 has appointed Trevor Milton’s little brother, Travis, as the Director of
4 Hydrogen Production/Infrastructure. Travis has held his title at Nikola for
5 over 5 years, beginning January 2015, according to his LinkedIn
(<https://www.linkedin.com/in/travis-milton-4b968153/>). [Image omitted.]

6 Interestingly, he seems to have landed in this crucial position the same month
7 he finished his last job, where his LinkedIn lists him as “President” of “Self-
Employed” in Maui, Hawaii. . . .

8 Eventually, we found a website ([http://www.ericnewman.com/TravisMilton](http://www.ericnewman.com/TravisMilton.htm)
9 .htm) that highlighted Travis’ work pouring concrete and building a barn as
10 a subcontractor in Maui. [Image omitted.]

11 **“Mr. Milton poured two long and challenging driveways** (one driveway
12 was the world’s steepest), and extensive walkways with elaborate embossed
Hawaiian leaves,” the website says. . . .

13 We’re not sure how this work prepped Travis for a key role in solving one of
14 the world’s greatest scientific challenges, but he appears to have been
15 handsomely rewarded for his discoveries.

16 Trevor has given Travis, along with other family members of Trevor and
17 select early employees, **stock worth over \$110 million as of this writing.**
18 [Pg. 116 ([https://www.sec.gov/Archives/edgar/data/1731289/000104746920](https://www.sec.gov/Archives/edgar/data/1731289/000104746920004261/a2242128z424b3.htm)
19 004261/a2242128z424b3.htm)] One source we spoke with, who previously
20 worked with Travis, described him as not having a formal role and as
someone Trevor “kept around” if they “needed someone to hold a rope, or
something like that” while they were working on vehicles.

21 **Nikola’s Head of Infrastructure Development, In Charge Of “Leading**
22 **Development” Of Nikola’s 700+ Hydrogen Station Network, Is the**
23 **Former CEO And General Manager of a Golf Club In Idaho**

24 Also central to the company’s hydrogen station initiative is Nikola’s “Head
25 of Infrastructure Development”.

26 Once again, we might anticipate that the rollout of Nikola’s coast-to-coast
27 hydrogen production network would be managed by an individual with an
28 extensive background in both science as well as large infrastructure
developments.

1 For this task, the company chose Dale Prows, who is described at the 13:20
2 ([https://www.youtube.com/watch?v=LbNopvpSbzU&feature=youtu.be&t=](https://www.youtube.com/watch?v=LbNopvpSbzU&feature=youtu.be&t=798)
3 798) mark in a video produced for investors ahead of the company going
4 public, as “one of our hydrogen experts.”

5 Prows joined Nikola after spending almost 4 years as CEO and General
6 Manager at a residential golf course in Idaho. [Images omitted.]

7 *Prows, along with Travis Milton, are apparently going to spearhead*
8 *building the world’s first network of 700 hydrogen production and fueling*
9 *stations.*

10 **Trevor: “We’ve Assembled One of the Best Teams in the World”**
11 **Nikola’s Chief Engineer: A Background Largely in Software**
12 **Development and Pinball Machine Repair**

13 *Trevor regularly touts bringing in top talent* (<https://youtu.be/ol110JwBQA>
14 *A?t=33)* *from all over the world.* Key to that team is Nikola’s Chief
15 Engineer, Kevin Lynk (<https://www.linkedin.com/in/klynk/>).

16 Trevor credits Kevin with designing all of the company’s e-axle, a complex
17 task for one vehicle let alone Nikola’s proposed suite of vehicles. At 8:43
18 (<https://youtu.be/heHZYqLRdE?t=523>) in the following video, Trevor
19 details all the elements of Nikola’s e-axle’s as developed by Lynk:

20 *“All the e-axles at Nikola were developed by Kevin... (These include) rotor,*
21 *stator, cooling, thermal, gears, and sometimes inverters.”*

22 (Note that the e-axles appear to be mostly developed by Bosch ([https://www](https://www.reuters.com/article/us-autos-bosch/bosch-partners-with-startupnikola-on-electric-long-haul-truck-idUSKCN1BUITO)
23 [.reuters.com/article/us-autos-bosch/bosch-partners-with-startupnikola-on-](https://www.reuters.com/article/us-autos-bosch/bosch-partners-with-startupnikola-on-electric-long-haul-truck-idUSKCN1BUITO)
24 [electric-long-haul-truck-idUSKCN1BUITO](https://www.reuters.com/article/us-autos-bosch/bosch-partners-with-startupnikola-on-electric-long-haul-truck-idUSKCN1BUITO).) We reviewed Kevin’s
25 biography on LinkedIn and found that prior to Nikola, he worked for 7
26 months designing oilfield products using CAD software, 3.5 years in
27 software development, and prior to that spent 9 months repairing pinball
28 machines.

(Emphasis added.)

43. The Report alleged that the Company published a misleading video of its
Nikola Two prototype, stating, in pertinent part:

1
2 **July 2020: Nikola Posts Video of Nikola Two Going “0-60 in Under 5
Seconds”**

3 **Reality: The Vehicle Was Already Rolling When the Video Started and
4 it Still Took Over 10 Seconds**

5 Following the Nikola One “demonstration”, the company was successful in
6 raising capital and bringing on a number of legitimate partners. Automotive
7 supply heavyweight Bosch agreed to work with Nikola in September 2017
8 ([https://nikolamotor.com/press_releases/nikola-motorcompany-and-bosch-
develop-the-commercial-vehicle-powertrain-of-the-future-35](https://nikolamotor.com/press_releases/nikola-motorcompany-and-bosch-develop-the-commercial-vehicle-powertrain-of-the-future-35)), and, by all
9 reports, ([https://www.boschpresse.de/pressportal/de/en/commercial-vehicle-
innovation-enabler-bosch-brings-advanced-solutions-to-the-new-nikola-
two-truck-187968.html](https://www.boschpresse.de/pressportal/de/en/commercial-vehicle-innovation-enabler-bosch-brings-advanced-solutions-to-the-new-nikola-two-truck-187968.html)) largely built its Nikola Two prototype trucks.

10
11 In a tweet ([https://twitter.com/nikolatrevor/status/1283425947199221761?s
=20](https://twitter.com/nikolatrevor/status/1283425947199221761?s=20)), *Trevor posted a video claiming to showcase the Nikola Two
12 prototype’s acceleration capabilities*[.] [Image omitted.]

13 The video begins with the truck already rolling. By just using a basic
14 stopwatch, we can see that it takes over 10 seconds between the start and
15 Trevor exclaiming “there it is” on the video. *The speedometer is not visible,
and we obviously have no ability to see what is actually powering the truck.*
16 [Click here to see the video, with a stopwatch ([https://youtu.be/rSiWPNe2ll
U](https://youtu.be/rSiWPNe2llU))]

17
18 In response to questions about the veracity of the video
19 (1 (<https://twitter.com/nikolatrevor/status/1283429144970158080?s=20>),
20 2 (<https://twitter.com/nikolatrevor/status/1283449179776245761?s=20>)),
*Trevor promised that professional video would soon follow, but we have
21 seen no such update.*

22 (Emphasis added.)

23 44. The Report alleged that Defendant Milton “has established an undeniable
24 track record of taking from others and claiming technology as his own. He has quietly
25 used off-the-shelf products from third-parties while loudly claiming to have vast
26 proprietary technology[.]” describing his time with Nikola and stating the following, in
27 pertinent part, about his experience before Nikola:

1 . . . *Trevor Milton is as “key man” as it gets. Per Nikola’s filings:*
2 *“Mr. Milton is the source of many, if not most, of the ideas and execution*
3 *driving Nikola”* [Pg. 45 ([https://www.sec.gov/ix?doc=/Archives/edgar/](https://www.sec.gov/ix?doc=/Archives/edgar/data/1731289/000173128920000012/nkla-20200630.htm)
4 [data/1731289/000173128920000012/nkla-20200630.htm](https://www.sec.gov/ix?doc=/Archives/edgar/data/1731289/000173128920000012/nkla-20200630.htm))].

5 *In Trevor’s post-Q2 CNBC interview, he said he let Nikola’s CEO*
6 *and CFO handle the earnings call because he “wanted them to feel*
7 *like they have a voice in the company”.* (Aug 5 CNBC, 3:34
8 (<https://www.youtube.com/watch?v=OPhN8saJkAI>))

9 * * *

10 Our work for this report involved speaking with multiple whistleblowers,
11 business partners, and former employees as well as reviewing extensive
12 internal documentation from Trevor’s ventures leading up to Nikola,
13 including emails, text messages, recorded conversations and behind-the
14 scenes photographs.

15 Based on our findings, we believe Nikola is an intricate fraud built on dozens
16 of lies over the course of its founder Trevor Milton’s career, which he has
17 parlayed into a \$20 billion cloud of smoke and partnerships with some of the
18 top auto companies in the world.

19 **Part I: Trevor Milton’s Career Path Leading Up to Nikola**
20 **November 2009: Trevor Milton Launches dHybrid, Inc. with a Partner,**
21 **Kicking off his EV Trucking Journey. It Ended in Litigation With**
22 **Allegations of Misappropriation and False Promises**

23 After dropping out of college ([https://twitter.com/nikolatrevor/status/12841](https://twitter.com/nikolatrevor/status/1284189340516540416?s=20)
24 [89340516540416?s=20](https://twitter.com/nikolatrevor/status/1284189340516540416?s=20)), Trevor Milton started an alarm sales company in
25 Utah called St. George Security and Alarm. He eventually exited the business
26 for \$300,000. Our interview with its buyer indicated that Trevor
27 overpromised, resulting in a total loss for the initial acquirer. We also
28 interviewed Trevor’s “50/50” business partner who indicated he was led to
believe the exit was much smaller, saying he ultimately received only
\$100,000 for his “50%”. Following the alarm business exit, Trevor launched
an online classified ads website that sold used cars, called uPillar.com, which
eventually failed. (For more on both of these early businesses, see the
Appendix at the end of this report.)

Following those two early pursuits, Trevor’s initial foray into alternative
energy vehicles was a company called dHybrid, Inc. Trevor joined forces
with an engineer named Mike Shroul who had developed compressed natural

1 gas (CNG) conversion technology for diesel engines. Shroul was to bring the
2 technical expertise to the venture while Trevor would bring his business
experience.

3 **It Got Off to a Good Start: dHybrid Entered into Agreement with Major**
4 **Trucking Company Swift to Convert Up to 800 Trucks, a Contract**
5 **Valued at 16 Million**

6 * * *

7 **Swift Later Sued, Alleging the Company Delivered Only 5 Trucks That**
8 **Didn't Work and That dHybrid's Officers Misappropriated Capital for**
9 **Personal Use**

10 * * *

11 **In the Lead-Up to the Lawsuit, Trevor Reached out to New Investors**
12 **Claiming the Swift Contract Was Worth 250-300 Million**
13 **Reality: We Have the Contract. It Was Only 16 Million**

14 * * *

15 **Following the Swift Litigation, dHybrid Sought a Buyout But the Deal**
16 **Ended in More Litigation, With the Buyer Alleging dHybrid Made**
17 **Numerous Misrepresentations About its Capabilities**

18 * * *

19 **2012: With dHybrid Mired in Litigation, Trevor Started a New**
20 **Company With his Dad, Choosing a Very Similar Name, dHybrid**
21 **Systems**

22 **Trevor Then Falsely Claimed to Prospective Partners That 'dHybrid'**
23 **Had Been in Operation for Years**

24 * * *

25 **2014: dHybrid *Systems* Was Then Acquired by Worthington—A**
26 **Successful Exit...For Trevor**

27 **We Learned from a Former Employee (In a Recorded Call) That**
28 **dHybrid Concealed Potentially Fatal Product Issues from Worthington**
In Order to Get the Deal Done

* * *

1 ***December 2015: Worthington Promptly Wrote Down the Value of dHybrid***
2 ***Assets***

3 (Emphasis added.)
4

5 45. The Report also alleged that the Company did not have five Tre trucks
6 coming off of the assembly line in Ulm, Germany.

7 46. On this news, shares of Nikola fell \$10.24, or 24%, over the next two trading
8 days, to close at \$32.13 per share on September 11, 2020, on unusually heavy trading
9 volume, damaging investors.

10 47. On September 14, 2020, after market hours, *Bloomberg* published an article
11 entitled “SEC Examining Nikola Over Short Seller’s Fraud Allegations” which announced
12 the SEC examination of Nikola stemming from the Report.

13 48. On this news, securities of Nikola declined in after-hours trading, further
14 damaging investors.

15 49. On September 15, 2020, before trading hours, Hindenburg Research
16 published another report (the “Second Report”), focused on Nikola’s responses and non-
17 responses to the Report, entitled “We View Nikola’s Response As a Tacit Admission of
18 Securities Fraud[.]”

19 50. The Second Report stated the following, in relevant part, regarding the
20 Company’s in-house design and manufacturing capabilities:

21 **Our Report: Trevor Claimed On Video That Nikola’s Inverters Were**
22 **Developed In House And That OEMs Were Asking To Use Them. In**
23 **The Same Video He Is Showcasing An Inverter Manufactured By**
24 **Cascadia With Masking Tape Covering Its Label.**

25 **Nikola’s Response: Admits This is True, Then Deflects by Vaguely**
26 **Stating That the Company Has Been “Working on Its Own Inverters**
27 **For Quite Some Time”**
28

1 In our report, we pointed out that Trevor, on video, claimed that Nikola made
2 its own inverters in-house, along with all the e-axle design and other key
3 components.

4 In the same video, Trevor shows off an inverter that we discovered is actually
5 manufactured by Cascadia, with a piece of masking tape on the label that
6 concealed who really made it.

7 *The company once again admitted the claims in our report to be true, and*
8 *walked back its claims that these inverters were Nikola’s proprietary*
9 *intellectual property by vaguely stating that it is “working on” its own*
10 *inverter:*

11 “Nikola has been designing, engineering and working on its own inverters
12 for quite some time.”

13 *The company’s CEO, Mark Russell, further walked back the company’s*
14 *claims to have vast proprietary technology when pressed by reporters from*
15 *the Financial Times on Friday:*

16 “Asked about Mr. Milton’s claim to have all the ‘core’ technology for its
17 vehicles, Mr. Russell **described the company as an ‘integrator’, stitching**
18 **together the many elements of its vehicles from a complex supply chain.”**

19 *Russell’s admission clearly corroborates our own findings, and directly*
20 *contradicts Trevor’s repeated claims of Nikola having vast proprietary*
21 *intellectual property.*

22 The company’s response on Monday morning declared that “at no time did
23 Nikola state that the inverter on the prototype truck shown in the video was
24 the Company’s.” But of course it ignores the fact that there is video proof,
25 narrated by Milton himself:

26 “We do all the e-axle design in house. All the gears, the gear reductions. The
27 thermal the cooling. Even the controls that go with it. **And, also, the**
28 **inverters as well. All inverters on the Nikola truck are probably some of**
the most advanced software systems that I know of anywhere in the
automotive world. Why do I know that? It’s because other OEMs are
asking us to use it.”

Why would OEMs be asking to use an inverter that hadn’t even been
developed? Furthermore, Trevor actually points to the supposed “in-house”
inverter in question in the video:



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Pictured: Trevor Milton’s finger, while he narrates a “Behind the Scenes” video, pointing at a Cascadia Inverter with masking tape over its label, about 15 minutes before proclaiming Nikola makes all its own inverters.

Once again, the company admitted our findings were correct.

Now, rather than defending its previous false claims to have developed revolutionary proprietary technology for use in its vehicles and prototypes, Nikola now vaguely claims to be working on it.

(Emphasis added.)

51. The Second Report stated the following, in pertinent part, regarding the Company’s hydrogen production capabilities:

Nikola’s Response Confirmed That None of this Happened: “Nikola Continues to Believe that its Planned Hydrogen Station Network...Will Provide Key Competitive Advantages.”

* * *

As acknowledged by the company’s statement Monday, it has no hydrogen network, and simply hopes to have one in the future. This once again strikes us as a tacit admission of securities fraud.

(Emphasis added.)

1 52. The Second Report stated the following, in pertinent part, regarding key
2 Nikola employee’s work experience:

3 **Our Report: Why Would Trevor Appoint His Brother As “Director of**
4 **Hydrogen Production/Infrastructure” Given He Had No Apparent**
5 **Experience in Hydrogen Technology?**

6 **Nikola’s Response: Travis Milton Ran A Construction Business**

7 In our report, we noted that Trevor Milton appointed his younger brother
8 Travis to a position that required scientific expertise. . . .

9 The company responded on Monday by claiming that Travis is qualified for
10 this high-level scientific position because he previously worked in
11 construction:

12 “Travis Milton previously owned and operated his own construction
13 company preparing him for hydrogen station infrastructure and buildouts.”

14 When faced with the same question, in a since-deleted Instagram rant
15 addressing the question (we have a copy), Trevor stated:

16 “Why do you give a shit? Go start your own company—hire your own
17 employees!”

18 Our questions to the company concerned Travis’ contributions to Nikola’s
19 claimed hydrogen breakthroughs, and his experience with the significant
20 technical and scientific challenges of hydrogen production, storage and
21 delivery. Those questions remain completely unanswered.

22 53. The Second Report stated the following, in relevant part, regarding the
23 Company’s potential five Tre trucks:

24 **Bloomberg Corroborates: The Assembly Line Isn’t Finished**
25 **Nikola’s Response Tacks A Year and A Half Onto Trevor’s Publicly**
26 **Disclosed “Right Now” Achievement, Saying It Doesn’t Expect the Tre**
27 **Until Q4 2021**

28 *Our research highlighted statements made by Trevor in July 2020 that 5
Nikola Tre trucks were coming off an assembly line in Germany. We*

1 *showed in our report that none of the trucks had been completed and that*
2 *the assembly line itself had not been completed.*

3 *Bloomberg has since confirmed our work*, writing:

4 “Those statements were a mischaracterization of Nikola and Iveco’s
5 progress in Ulm, according to two people familiar with the matter. The
6 assembly line is still under construction and not yet operational or
7 building prototypes, the people said. There are prototypes being built by
8 hand in a workshop, one of the people said.”

9 . . . In its response on Monday morning, Nikola stated:

10 “five trucks are currently being built and commissioned in Ulm, Germany,
11 and are pre-production builds”

12 *This confirmed our original report*, including comments quoted by a Bosch
13 spokesman, indicating the trucks were still not completed and had not rolled
14 off an assembly line in July. Nikola then stated that it expects the Tre to be
15 “ready for production and available to customers by the fourth quarter of
16 2021.”

17 *We view this, once again, as an admission that Trevor’s statement to*
18 *investors in July was patently false. Not only were completed trucks not*
19 *rolling off an assembly line, but an assembly line hadn’t even been*
20 *constructed. The trucks remain uncompleted.*

21 (Emphasis added.)

22 54. The Second Report listed 43 questions that Hindenburg raised in its Report
23 that Nikola has not responded to. These include the following regarding key Nikola
24 employee’s work experience, Nikola’s hydrogen production and pricing capabilities, and
25 the Nikola Two video:

26 6. You appointed your brother Travis as “Director of Hydrogen
27 Production/Infrastructure”. What experience does he have in hydrogen
28 research and production?”

Nikola’s response: NONE

* * *

1 24. You claimed in an interview to have succeeded at cutting the cost of
2 hydrogen by ~81% from peers, stating “we’re down below \$3/kg on our
3 hydrogen now”. How much hydrogen has Nikola produced at this price, if
4 any?

5 Nikola’s response: NONE

6 * * *

7 26. Why did you post a video saying the Nikola Two had gone from 0-60mph
8 in under 5 seconds when anyone with a stopwatch can see that it took at least
9 10 seconds?

10 Nikola’s response: NONE

11 27. Following the 0-60 video you promised to post a professional version of
12 the video, saying it was just being edited. But you never did. Why? Does the
13 Nikola Two have as much power as you’ve claimed it has?

14 Nikola’s response: NONE

15 55. On this news, securities of Nikola declined in pre-market trading, further
16 damaging investors.

17 56. As a result of Defendants’ wrongful acts and omissions, and the precipitous
18 decline in the market value of the Company’s securities, Plaintiff and other Class members
19 have suffered significant losses and damages.

20 **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

21 57. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil
22 Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons other than
23 defendants who purchased publicly traded Nikola securities on the NASDAQ during the
24 Class Period, and who were damaged thereby (the “Class”). Excluded from the Class are
25 Defendants, the officers and directors of Nikola and its subsidiaries, members of the
26 Individual Defendants’ immediate families and their legal representatives, heirs,
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1 successors or assigns and any entity in which Defendants have or had a controlling
2 interest.

3 58. The members of the Class are so numerous that joinder of all members is
4 impracticable. Throughout the Class Period, Nikola securities were actively traded on the
5 NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time
6 and can be ascertained only through appropriate discovery, Plaintiff believes that there are
7 hundreds, if not thousands of members in the proposed Class.

8 59. Plaintiff's claims are typical of the claims of the members of the Class as all
9 members of the Class are similarly affected by defendants' wrongful conduct in violation
10 of federal law that is complained of herein.

11 60. Plaintiff will fairly and adequately protect the interests of the members of
12 the Class and has retained counsel competent and experienced in class and securities
13 litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

14 61. Common questions of law and fact exist as to all members of the Class and
15 predominate over any questions solely affecting individual members of the Class. Among
16 the questions of law and fact common to the Class are:

17 a) whether the Exchange Act was violated by Defendants' acts as
18 alleged herein;

19 b) whether statements made by Defendants to the investing public
20 during the Class Period misrepresented material facts about the financial condition and
21 business of the Company;

22 c) whether Defendants' public statements to the investing public during
23 the Class Period omitted material facts necessary to make the statements made, in light of
24 the circumstances under which they were made, not misleading;

25 d) whether the Defendants caused the Company to issue false and
26 misleading filings during the Class Period;

27 e) whether Defendants acted knowingly or recklessly in issuing false
28 filings;

1 f) whether the prices of Nikola securities during the Class Period were
2 artificially inflated because of the Defendants' conduct complained of herein; and

3 g) whether the members of the Class have sustained damages and, if so,
4 what is the proper measure of damages.

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

11 63. Plaintiff will rely, in part, upon the presumption of reliance established by
12 the fraud-on-the-market doctrine in that:

13 a) Nikola shares met the requirements for listing, and were listed and
14 actively traded on the NASDAQ, an efficient market;

15 b) As a public issuer, the Company filed periodic public reports;

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

20 d) Nikola's securities were liquid and traded with moderate to heavy
21 volume during the Class Period; and

22 e) The Company was followed by a number of securities analysts
23 employed by major brokerage firms who wrote reports that were widely distributed and
24 publicly available.

25 64. Based on the foregoing, the market for Nikola securities promptly digested
26 current information regarding the Company from all publicly available sources and
27 reflected such information in the prices of the securities, and Plaintiff and the members of
28 the Class are entitled to a presumption of reliance upon the integrity of the market.

1 70. Defendants acted with scienter in that they knew that the public documents
2 and statements issued or disseminated in the name of the Company were materially false
3 and misleading; knew that such statements or documents would be issued or disseminated
4 to the investing public; and knowingly and substantially participated, or acquiesced in the
5 issuance or dissemination of such statements or documents as primary violations of the
6 securities laws. These Defendants by virtue of their receipt of information reflecting the
7 true facts of the Company, their control over, and/or receipt and/or modification of
8 Nikola's allegedly materially misleading statements, and/or their associations with the
9 Company which made them privy to confidential proprietary information concerning the
10 Company, participated in the fraudulent scheme alleged herein.

11 71. Individual Defendants, who are or were the senior officers and/or directors
12 of the Company, had actual knowledge of the material omissions and/or the falsity of the
13 material statements set forth above, and intended to deceive Plaintiff and the other
14 members of the Class, or, in the alternative, acted with reckless disregard for the truth
15 when they failed to ascertain and disclose the true facts in the statements made by them
16 or other Nikola personnel to members of the investing public, including Plaintiff and the
17 Class.

18 72. As a result of the foregoing, the market price of Nikola securities was
19 artificially inflated during the Class Period. In ignorance of the falsity of Defendants'
20 statements, Plaintiff and the other members of the Class relied on the statements described
21 above and/or the integrity of the market price of Nikola securities during the Class Period
22 in purchasing Nikola securities at prices that were artificially inflated as a result of
23 Defendants' false and misleading statements.

24 73. Had Plaintiff and the other members of the Class been aware that the market
25 price of Nikola's securities had been artificially and falsely inflated by Defendants'
26 misleading statements and by the material adverse information which Defendants did not
27 disclose, they would not have purchased Nikola's securities at the artificially inflated
28 prices that they did, or at all.

1 Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful
2 conduct alleged which artificially inflated the market price of Nikola securities.

3 80. By reason of the above conduct, the Individual Defendants are liable
4 pursuant to Section 20(a) of the Exchange Act for the violations committed by the
5 Company.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for judgment
8 and relief as follows:

9 (a) declaring this action to be a proper class action, designating plaintiff as Lead
10 Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal
11 Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;

12 (b) awarding damages in favor of plaintiff and the other Class members against
13 all defendants, jointly and severally, together with interest thereon;

14 (c) awarding plaintiff and the Class reasonable costs and expenses incurred in
15 this action, including counsel fees and expert fees; and

16 (d) awarding plaintiff and other members of the Class such other and further
17 relief as the Court may deem just and proper.

18 **JURY TRIAL DEMANDED**

19 Plaintiff hereby demands a trial by jury.

20
21 Dated: September 15, 2020

22
23 **TIFFANY & BOSCO, P.A.**

24 By: /s/ Richard G. Himelrick

25 Richard G. Himelrick
26 Seventh Floor Camelback Esplanade II
27 2525 E. Camelback Road
28 Phoenix, AZ 85016
Liaison Counsel for Plaintiff

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Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2020, the attached document was electronically transmitted to the Clerk of the Court using the CM/ECF System which will send notification of such filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

/s/ Shelley Boettge
Shelley Boettge

Certification and Authorization of Named Plaintiff Pursuant to Federal Securities Laws

The individual or institution listed below (the "Plaintiff") authorizes and, upon execution of the accompanying retainer agreement by The Rosen Law Firm P.A., retains The Rosen Law Firm P.A. to file an action under the federal securities laws to recover damages and to seek other relief against Nikola Corporation. The Rosen Law Firm P.A. will prosecute the action on a contingent fee basis and will advance all costs and expenses. The Nikola Corporation. Retention Agreement provided to the Plaintiff is incorporated by reference, upon execution by The Rosen Law Firm P.A.

First name: DANIEL
Middle initial:
Last name: BORTEANU
Address: Redacted
City:
State:
Zip:
Country:
Facsimile:
Phone:
Email:

Plaintiff certifies that:

1. Plaintiff has reviewed the complaint and authorized its filing.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. Plaintiff represents and warrants that he/she/it is fully authorized to enter into and execute this certification.
5. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.
6. Plaintiff has made no transaction(s) during the Class Period in the debt or equity securities that are the subject of this action except those set forth below:

Acquisitions:

Type of Security	Buy Date	# of Shares	Price per Share
Common Stock	09/08/2020	180	54.16
Common Stock	09/09/2020	100	46.12

Sales:

Type of Security	Sale Date	# of Shares	Price per Share
Common Stock	09/10/2020	280	39.81

Certification for DANIEL BORTEANU (cont.)

7. I have not served as a representative party on behalf of a class under the federal securities laws during the last three years, except if detailed below.

BORTEANU

I declare under penalty of perjury, under the laws of the United States, that the information entered is accurate: **YES**

By clicking on the button below, I intend to sign and execute this agreement and retain the Rosen Law Firm, P.A. to proceed on Plaintiff's behalf, on a contingent fee basis. **YES**

Signed pursuant to California Civil Code Section 1633.1, et seq. - and the Uniform Electronic Transactions Act as adopted by the various states and territories of the United States.

Date of signing: 09/15/2020