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Additional Plaintiff Angelo Federico and the Class*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SAM FARRAR, Individually and on  
Behalf of All Others Similarly Situated,  
Plaintiff,

v.

WORKHORSE GROUP, INC., DUANE  
HUGHES, STEVE SCHRADER,  
ROBERT WILLISON, and GREGORY  
ACKERSON

Defendants.

Case No. 2:21-cv-02072-CJC-PVC

**AMENDED COMPLAINT FOR  
VIOLATION OF FEDERAL  
SECURITIES LAW**

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1           1.     Lead Plaintiff Timothy M. Weis (“Lead Plaintiff”), together with  
2 additional Plaintiff Angelo Federico (collectively, “Plaintiffs”), and on behalf of all  
3 other persons similarly situated, by and through Plaintiffs’ undersigned attorneys,  
4 alleges the following based upon personal knowledge as to Plaintiffs’ and Plaintiffs’  
5 own acts, and upon information and belief as to all other matters. This investigation  
6 included, but was not limited to, a review and analysis of: (i) court records; (ii) public  
7 filings of Workhorse Group, Inc. (“Workhorse” or the “Company”) with the U.S.  
8 Securities and Exchange Commission (“SEC”); (iii) transcripts and investor  
9 presentations; (iv) Workhorse’s press releases; (v) analyst reports and independent  
10 media reports regarding Workhorse, its stock price movement, pricing and volume  
11 data; (vi) videos of interviews with Workhorse executives, as well as videos  
12 produced by Workhorse, on YouTube; (vii) other publicly available material and  
13 data; and (viii) interviews of persons with knowledge of the allegations contained  
14 herein, including former employees of Workhorse and relevant third parties.  
15 Counsel’s investigation into the factual allegations contained herein is continuing,  
16 and many of the relevant facts are known only by defendants and/or are exclusively  
17 within their custody or control. Plaintiffs believe that additional evidentiary support  
18 will exist for the allegations set forth herein after further investigation and after a  
19 reasonable opportunity to conduct discovery.

20           2.     Plaintiffs bring this securities class action on behalf of persons who  
21 purchased the securities of Workhorse between March 10, 2020 and May 10, 2021,  
22 inclusive (the “Class Period”), against Workhorse, Chief Executive Officer Duane  
23 Hughes (“Hughes”), Chief Financial Officer Steve Schrader (“Schrader”), Chief  
24 Operating Officer Robert Willison (“Willison”), and Corporate Controller (Principal  
25 Accounting Officer) Gregory Ackerson (“Ackerson”). Plaintiffs seek to recover  
26 compensable damages caused by Defendants’ violations of the federal securities  
27 laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

1 **OVERVIEW**

2 3. In a public podcast on August 17, 2020, Defendant Willison stated:  
3 “One of my favorite phrases is ‘when all is said and done, there’s more said than  
4 done.’” Willison’s statement sums up the fraud perpetrated by Defendants in this  
5 case – a lot was said but almost nothing was actually done. During the course of the  
6 Class Period, Defendants perpetrated a scheme to fraudulently inflate the price of  
7 Workhorse securities, by (1) participating in (and not withdrawing from) the bidding  
8 process for a \$6.3 billion contract to manufacture the new fleet of 165,000 United  
9 States Postal Service (“USPS”) next generation delivery vehicles (“NGDV”) despite  
10 failing to meet basic criteria for manufacturing capacity, design, and safety, which  
11 the USPS repeatedly told Workhorse were deficiencies in their proposal; (2)  
12 materially misrepresented the manufacturing capabilities of the Company,  
13 repeatedly emphasizing its ability to produce hundreds of vehicles a year when in  
14 reality they struggled to manufacture even a handful; and (3) materially  
15 misrepresenting nonbinding interest in the Company’s vehicles as a purported  
16 “backlog” of orders. Through this scheme and through their material  
17 misrepresentations, Defendants misled the market to believe that Workhorse had  
18 moved beyond the research and development phase of the Company and into mass  
19 production, that the Company had a steady backlog and demand for their product,  
20 and that there was a strong possibility Workhorse would be granted all or part of the  
21 USPS contract.

22 4. Based on this positive portrait of the Company, and despite the  
23 Workhorse’s meager revenue stream, unyielding cash burn, snail-like pace of  
24 production, unproven business model, and unproven product line, the stock price  
25 soared from around \$2.50/share at the start of the Class Period to a high of over  
26 \$40/share, *a more than 1500% increase.*

1           5.           With the stock price artificially inflated, the Individual Defendants, as  
2 well as members of the Workhorse Board of Directors, sold huge quantities of  
3 Workhorse stock for their personal profit. These massive stock sales, which  
4 involved over 850,000 shares and exceeded \$21.5 million in aggregate proceeds,  
5 stood in stark contrast to the Individual Defendants' Pre-Class Period trading  
6 practices, as none of them sold a single share before the start of the Class Period.  
7 Moreover, all of these sales took place during an approximately 6-month period  
8 when the stock price was over \$15/share, and none of the Individual Defendants sold  
9 any stock from the time the price crashed in late February 2021, when the USPS  
10 announced a competitor won the NGDV contract, to the end of the Class Period.

11           6.           Unbeknownst to investors, Workhorse was nowhere near able to mass  
12 produce trucks, as the facility where the trucks were being assembled was  
13 understaffed, had no automation, and trucks were assembled one at a time on wooden  
14 work benches. Workhorse's backlog consisted of highly conditional agreements  
15 with entities who had no obligation to ever take delivery of the trucks. Additionally,  
16 by Workhorse's own admission, USPS decided early on, based on factors which  
17 Defendants were fully aware of, that the NGDV contract would not be awarded to  
18 Workhorse.

19           7.           The market learned these true material facts, previously concealed  
20 through Defendants' scheme and misrepresentations, through a series of revelations  
21 that eroded the artificial inflation extant in Workhorse's stock.

22           8.           First, on October 8, 2020, Fuzzy Panda Research published a report  
23 prior to the opening of the market, entitled "The 'Brakes' Fall Off The USPS Story:  
24 Workhorse's USPS Bid has Numerous Critical Failures." The report revealed  
25 numerous true, non-public facts, that contradicted Defendants' statements, and  
26 partially revealed Defendants' scheme. For example, Fuzzy Panda revealed, through  
27 its own non-public conversations with sources, that Workhorse's initial partner to

1 the NGDV bid, VT Hackney, dropped out and sold their rights to Workhorse because  
2 of, among other things, “Numerous Critical Failures” during the prototype testing,  
3 including motors breaking, safety belt problems, constant door problems, problems  
4 with the performance of the chassis, suspension problems, range problems, power  
5 problems, and “most notably,” the “notorious parking brake failure resulting in a  
6 USPS employee being hospitalized.” Fuzzy Panda revealed based on its own  
7 investigator’s visits to Workhorse facilities that employees were not working on  
8 producing vehicles as the Company represented, and could not manufacture vehicles  
9 at scale. Additionally, Fuzzy Panda revealed the fictitious nature of the purported  
10 “backlog” of UPS orders, and that all the vehicles Workhorse had produced for them  
11 were simply prototypes. Finally, the Report revealed that Workhorse had a history  
12 of connections to illegally paid stock promoters who were hired to “publish dozens  
13 of bullish articles on its clients, which appeared to be independent research pieces.”

14 9. While the Fuzzy Panda Report’s revelations had an immediate negative  
15 impact on Workhorse’s stock, the Company’s stock price bounced back as news and  
16 media outlets discounted the report as influenced by Fuzzy Panda’s short position.  
17 For example, Bloomberg published an article that same day, entitled “Workhorse  
18 Shares Shrug Off Short-Seller Report’s Allegations,” reporting on the Fuzzy Panda  
19 piece, attributing a sharp price decline in Workhorse’s stock to the revelations in the  
20 report, stating “[s]hares of Workhorse declined 1.2% to \$23.91 at 1:08 p.m. in New  
21 York after paring an earlier decline of as much as 6.1%.”

22 10. Second, on February 23, 2021, USPS announced that it was awarding  
23 the entirety of the 10-year, multi-billion dollar NGDV contract to competing bidder  
24 Oshkosh Defense (partnered with Ford). Analysts following Workhorse were  
25 “shocked” by the announcement. For example, Wolfe Research issued a note that  
26 same day explaining that “[g]iven recent indications from the Postal Service that the  
27 contract could be split between multiple OEMs, and given President Biden’s new

1 EV [electric vehicle] mandate for the Federal Fleet, investors were clearly surprised  
2 by this outcome.” In other words, because the stars seemed aligned to favor an all-  
3 EV bid, yet Workhorse failed to receive even a miniscule portion of the contract,  
4 Wolfe Research underscored that the revelation “raise[d] questions about underlying  
5 issues with WKHS’s product/technology.” Moreover, although Wolfe had just been  
6 singing praises of increases to Workhorse’s backlog less than two months earlier,  
7 Wolfe became “cautious on valuation,” highlighting risks with manufacturing.

8 11. While Defendants Hughes, Willison, and multiple board members  
9 suspiciously unloaded hundreds of thousands of Workhorse shares in the month  
10 before the USPS announcement when the stock was surging above \$30 per share,  
11 unwitting investors were pummeled by the revelation, as Workhorse’s stock  
12 plummeted from \$31.34 per share at close on February 22, to \$16.47 per close on  
13 February 23, a decline of over 47%.

14 12. Even though investors were shocked by the USPS contract outcome and  
15 began questioning Defendants’ representations regarding Workhorse’s capabilities,  
16 the Company’s stock price remained artificially buoyed, as market participants such  
17 as BTIG, Colliers International, and Roth Capital continued to emphasize the  
18 strength of Workhorse’s fictitious “backlog” of vehicle orders, believing  
19 (erroneously) that “There is still a real company here.”

20 13. The third revelation came on May 10, 2021, when, despite continuously  
21 emphasizing the Company’s plans to “ramp-up” production, Defendants revealed  
22 Workhorse had only delivered 6 trucks in the First Quarter of Fiscal 2021 (“1Q:21”)  
23 and had only produced 38 trucks total year to date, making it clear that Workhorse  
24 simply did not have the capability to manufacture vehicles at any scale, that the  
25 Company’s supposed manufacturing ramp-up remained “elusive,” that there was not  
26 path to achieving the Company’s stated target of 1,800 trucks in 2021. Once again,  
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1 Workhorse stock fell precipitously when the truth was revealed, falling to \$8.20 at  
2 close on May 10, 2021, a 15% decrease from the prior trading day close of \$9.64.

3 14. Company admissions from Post-Class Period filings in *Workhorse*  
4 *Group Inc. v. United States*, No. 1:21-cv-01484, the United States Court of Federal  
5 Claims litigation between Workhorse and USPS in (the “Federal Claims Action”),  
6 confirm Defendants’ scheme and the falsity of Defendants’ misrepresentations and  
7 support the research in the Fuzzy Panda Report. Workhorse’s complaint in the  
8 Federal Claims Action (the “Fed. Claims Complaint”) acknowledges that USPS  
9 cited numerous reasons that USPS “would never have selected [Workhorse’s  
10 NGDV] for its flagship vehicle,” the “posterchild” of which was a “roll-away  
11 incident,” in which “a flaw in Workhorse’s parking brake system caused  
12 Workhorse’s prototype vehicle to roll down an incline and into a ditch,” resulting in  
13 the hospitalization of a union USPS driver who was forced to jump from the runaway  
14 vehicle. Fed. Claims Complaint at ¶ 11. The Fed. Claims Complaint concedes that  
15 on at least two occasions during the Class Period, USPS informed Workhorse of  
16 various “areas of deficiency,” and provided a “Deficiency List” that “identified  
17 issues” with Workhorse’s proposal, including questions regarding the Company’s  
18 “prior performance,” “Workhorse’s ability to manufacture efficient and sustainable  
19 all-electric vehicles for large-scale commercial delivery,” the “production  
20 capabilities of Workhorse’s leadership and partners,” and “Workhorse’s cost  
21 breakdown.” *Id.* at ¶¶ 63, 65, 93, 95, 101-164.

22 15. The bulk of these issues, as well as the “roll-away incident,” bore  
23 directly on the “Technical Evaluation Factors” of the USPS assessment (“Design  
24 Quality and Technical Approach, Supplier Capability, and Past Performance”),  
25 which the USPS’ Solicitation explained to Workhorse “would be more important  
26 than Total Cost of Ownership in ultimately calculating the best value to the USPS.”  
27



1 *Id.* at ¶¶ 36-37. Thus, as would be expected, Workhorse scored dead last among its  
2 competitors in Technical Ranking and Best Value Ranking. *Id.* at ¶ 81.

3 16. When Workhorse submitted its “disagreement” to the USPS award  
4 decision, the USPS responded with what Workhorse characterized as “a lengthy  
5 screed aggressively attacking Workhorse,” and its “lack of credibility and candor  
6 with the Federal government.” *Id.* at ¶¶ 75-76, 88. In addition to recounting the  
7 numerous “‘critical’ deficiencies in Workhorse’s proposal,” the USPS “castigated  
8 Workhorse” for its public statements related to Workhorse’s “participation in the  
9 NGDV program” despite the Company having signed a strict non-disclosure  
10 agreement. *Id.* ¶¶ 77, 89. As the letter “made clear” in what Workhorse described as  
11 a “remarkably hostile tone,” the USPS had “closely policed Workhorse’s public  
12 statements,” and referenced securities fraud – indeed, the very allegations of this  
13 litigation – as one of many reasons USPS denied Workhorse’s proposal, and would  
14 have denied it “even if the USPS had rated its proposal the best value.” *Id.* at ¶ 89.  
15 That the USPS itself came to such a striking conclusion firmly corroborates  
16 Plaintiffs’ allegations of fraud.

### 17 JURISDICTION AND VENUE

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

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

23 19. This Court has jurisdiction over each Defendant named herein because  
24 each Defendant has sufficient minimum contacts with this judicial district so as to  
25 render the exercise of jurisdiction by this Court permissible under traditional notions  
26 of fair play and substantial justice.





1 President and Chief Operating Officer (“COO”) under the leadership of former CEO  
2 Steve Burns. As COO, Hughes participated in quarterly earnings calls and signed  
3 contracts, such as a 2018 agreement between Workhorse and UPS. During the Class  
4 Period, Hughes sold 615,195 shares of his Workhorse stock for proceeds of  
5 approximately \$15,275,000.<sup>1</sup>

6 26. Defendant Steve Schrader served as the Chief Financial Officer  
7 (“CFO”) of the Company throughout the Class Period. He became CFO of  
8 Workhorse in December, 2019, having resigned from his former position as CFO of  
9 automotive glass manufacturer Fuyao Glass America Inc. after Netflix picked up the  
10 documentary film American Factory, which filmed Fuyao executives illegally  
11 discussing firing workers for trying to unionize. During the Class Period, Schrader  
12 sold 19,589 shares of his Workhorse stock for proceeds of approximately \$417,000.<sup>2</sup>

13 27. Defendant Robert Willison served as the COO of the Company  
14 throughout the Class Period. Willison acted as the Director of Research and  
15 Development at Workhorse from July 2016-June 2018, during which time he  
16 managed all development engineering efforts and was the Chief Engineer for the  
17 USPS effort. Willison left the Company for several years, but was rehired in  
18 February of 2019, shortly after Hughes became CEO. During the class period,  
19 Willison sold 176,023 shares of his Workhorse stock for proceeds of approximately  
20 \$5 million.<sup>3</sup>

21 28. Defendant Gregory Ackerson served as the Corporate Controller  
22 (Principal Accounting Officer) of the Company throughout the Class Period.

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23 <sup>1</sup> Approximately 7.5% of these sales were “Code F” dispositions, representing shares of common  
24 stock relinquished to the Company to cover estimated tax withholding for restricted shares  
25 previously granted subject to vesting. Defendants still benefitted from these relinquishments, as  
26 they were not required to pay the taxes with ready money. None of the Defendants made any “Code  
27 F” dispositions prior to the start of the Class Period.

<sup>2</sup> Approximately 22% of these sales were “Code F” dispositions, see Footnote 1 above.

<sup>3</sup> Approximately 3.5% of these sales were “Code F” dispositions, see Footnote 1 above.

1 Ackerman joined Workhorse in April, 2018 and he began signing Workhorse’s 10-  
2 Ks and 10-Qs starting in March, 2020. During the Class Period, Ackerson sold  
3 39,850 shares of Workhorse stock for proceeds of approximately \$965,000.<sup>4</sup>

4 29. Defendants Hughes, Schrader, Willison and Ackerson are collectively  
5 referred to herein as the “Individual Defendants.”

6 30. Throughout the Class Period, the Individual Defendants engaged in a  
7 scheme and course of conduct to conceal the truth about Workhorse’s business  
8 practices and operations. Each of the Individual Defendants made misleading  
9 statements and/or omissions which artificially inflated the price of Workhorse  
10 securities. Hughes, Schrader, and Willison each participated in all of the Company’s  
11 earnings calls throughout the Class Period, and Hughes, Schrader, and Ackerman  
12 each signed all of Workhorse’s quarterly and annual reports during the Class Period.  
13 Schrader additionally conducted numerous interviews with the media, including  
14 interviews with several financial influencers on YouTube.

15 31. Each of the Individual Defendants:

- 16 (a) directly participated in the management of the Company;  
17 (b) was directly involved in the day-to-day operations of the  
18 Company at the highest levels;  
19 (c) was privy to confidential proprietary information concerning the  
20 Company and its business and operations;  
21 (d) was directly or indirectly involved in drafting, producing,  
22 reviewing and/or disseminating the false and misleading  
23 statements and information alleged herein;  
24 (e) was directly or indirectly involved in the oversight or  
25 implementation of the Company’s internal controls; and/or  
26

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27 <sup>4</sup> Approximately 48% of these sales were “Code F” dispositions, see Footnote 1 above.

1 (f) was aware of or recklessly disregarded the fact that the false and  
2 misleading statements were being issued concerning the  
3 Company.

4 32. The Company is liable for the acts of the Individual Defendants and its  
5 employees under the doctrine of *respondeat superior* and common law principles of  
6 agency because all of the wrongful acts complained of herein were carried out within  
7 the scope of their employment.

8 33. The scienter of the Individual Defendants and other employees and  
9 agents of the Company is similarly imputed to the Company under *respondeat*  
10 *superior* and agency principles.

11 34. Workhorse and the Individual Defendants are referred to collectively  
12 as the “Defendants.”

13 **SUBSTANTIVE ALLEGATIONS**<sup>5</sup>

14 35. Workhorse is a company that purports to develop and manufacture all-  
15 electric “last mile” delivery trucks, in other words, small or medium sized trucks that  
16 deliver items the relatively short distance from a warehouse or fulfillment center to  
17 the end customer.

18 36. Workhorse was originally a custom chassis manufacturer, formerly  
19 owned by Navistar International. In March 2015, AMP Holdings, Inc. took over the  
20 Company, changing the company name to Workhorse Group Incorporated, and  
21 began offering a range of electric vehicles under the leadership of CEO Steve Burns  
22 (“Burns”).

23 37. Workhorse is headquartered in Loveland, Ohio. The Company also  
24 operates a facility in Union City, Indiana, where Navistar previously assembled  
25 chassis for trucks and mobile homes. Workhorse sometimes refers to this facility as  
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27 <sup>5</sup> Unless otherwise noted, all emphasis to quotations is added.

1 a “factory”<sup>6</sup> but, during the Class Period and still to this day, the facility has no  
2 automation or assembly line capabilities that one would traditionally expect to find  
3 in a factory.

#### 4 **A. Workhorse Pursues Futile Bid for the USPS NGDV Contract**

5 38. In January 2015, the United States Postal Service (“USPS”) publicly  
6 announced the Next Generation Delivery Vehicle (“NGDV”) project, a competitive  
7 multiyear acquisition process for replacing approximately 165,000 aging package  
8 delivery vehicles. On October 16, 2015, USPS issued a Prototype Request for  
9 Proposal (“RFP”) to fifteen prequalified suppliers, and out of these proposals six  
10 suppliers were chosen to create prototypes. Numerous media sources reported the  
11 contract was worth approximately \$6.3 billion, though some outlets reported the  
12 value could be closer to \$8 billion, or even higher.

13 39. The NGDV program included two phases: the Prototype Phase and the  
14 Production Phase. Workhorse predecessor AMP Holdings, Inc. submitted a  
15 proposal to create a prototype, listing Defendant Hughes as the main point of contact,  
16 but the bid was rejected because Workhorse’s engineers were unable to use the  
17 design software USPS required all bidders to use. This was a very early indication  
18 that Workhorse was not equipped to design or produce vehicles to the standard  
19 required for such a large and significant contract. However, instead of dropping out  
20 (as several initial bidders did), Defendants engaged in a scheme to futilely pursue  
21 the USPS contract in order to raise the price of Workhorse stock, resulting in  
22 Workhorse’s executives and board members making tens of millions of dollars in  
23 insider trading profits.

24 40. After failing to present a viable proposal on its own, Workhorse  
25 partnered with well-established engineering company VT Hackney, which, along

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26 <sup>6</sup> For example, in the caption to this April, 2020 video on Workhorse’s YouTube channel:  
27 <https://www.youtube.com/watch?v=nwJYbM1tntY>

1 with five other prime contractors, had been selected as manufacturers for award of a  
2 prototype contract, and received a share of approximately \$37 million to design and  
3 build a working mail truck prototype for testing. These six suppliers were contracted  
4 to design and manufacture fully functioning NGDV prototypes in accordance with  
5 USPS's requirements and objectives, after which USPS would take delivery of the  
6 prototypes and test them extensively for six months.

7 41. VT Hackney subsequently realized the venture would not be profitable  
8 enough to continue, and decided to drop out. Instead of bowing out along with their  
9 much more experienced partner, on November 6, 2019, Workhorse announced it had  
10 purchased VT Hackney's right to bid on the contract for approximately \$7 million.

11 42. According to the USPS's Solicitation sent to Workhorse and other  
12 contract bidders, USPS evaluated the proposals weighing its "total cost of  
13 ownership, technical evaluation results, and risk," to determine the "best value" to  
14 USPS. Fed. Claims Complaint at ¶ 34.

15 43. "Total Cost of Ownership," included consideration of factors such as  
16 acquisition costs, maintenance costs, fuel costs, etc. *Id.* at ¶ 35.

17 44. The "Technical Evaluation Factors" "were (in descending order of  
18 importance): Design Quality and Technical Approach, Supplier Capability, and Past  
19 Performance, each of which comprised multiple subfactors." *Id.* at ¶ 36.

20 45. With regard to Design Quality, the most important Technical  
21 Evaluation Factor, USPS evaluated the proposals' (i) Reliability, (ii)  
22 Maintainability, (iii) Fuel Economy and Emissions, and (iv) Safety and Ergonomics.  
23 *Id.* at ¶ 39. Reliability was assessed based on the "clarity, completeness, and merit  
24 of the [NGDV's] specific features, materials, assembly techniques, sourcing, and  
25 quality control strategies." *Id.* at ¶ 40. Maintainability was assessed based on "[t]he  
26 completeness and quality of the offeror's description of how specific design features,  
27 materials, assembly and/or operating characteristics will lead to reduced

1 maintenance.” *Id.* at ¶ 41. Fuel Economy and Emissions was assessed based on  
2 “[t]he completeness of description and projected value of [the] offeror’s features that  
3 focus on improving fuel economy and reducing emissions.” *Id.* at ¶ 42. Safety and  
4 Ergonomics was assessed based on “[t]he completeness, feasibility, and potential  
5 safety value of [the] offeror’s various design features, systems, and components that  
6 focus on improving safety of operations and minimizing carrier accidents,”  
7 including “features that increase the efficiency of loading, unloading, curbside  
8 delivery, package delivery and delivery activities.” *Id.* at ¶ 43.

9 46. As for the second most important Technical Evaluation Factor,  
10 “Supplier Capability,” USPS evaluated (i) Engineering Capability, (ii) Production  
11 and Delivery, (iii) Service and Parts, and (iv) Quality. *Id.* at ¶ 44. Engineering  
12 Capability was assessed based on “[a]vailable resources, qualified personnel, and  
13 facilities for production design, development, and warranty support.” *Id.* at ¶ 45.  
14 Production and Delivery was assessed based on the “[a]bility to produce NGDVs in  
15 accordance with [its] proposed production schedule, including a focus on the  
16 offeror’s production facilities and ability to effectively scale into production.” *Id.* at  
17 ¶ 46. Service and Parts was assessed based on “[p]resent and future capability to  
18 provide consistent service support and parts during the NGDV lifecycle.” *Id.* at ¶ 47.  
19 Quality was assessed based on “[e]xperience with and evidence of [offeror’s] quality  
20 management system and the quality management system of [their] key  
21 partners/subcontractor(s).” *Id.* at ¶ 48.

22 47. In evaluating the third Technical Evaluation Factor, “Past  
23 Performance,” the USPS considered “Prototype Performance and Prior  
24 Performance, with the former carrying greater importance.” *Id.* at ¶ 49. USPS  
25 assessed Prototype Performance “as demonstrated by the Postal Service’s testing  
26 and observations during the NGDV Prototype Phase, including validation of the  
27 subsystem reliability, vehicle safety, fuel economy, acceptance testing validation,  
28



1 break-in resistance, cold weather adaptability, and any other relevant performance  
2 tests performed by the Postal Service.” *Id.* at ¶ 50. Prior Performance was assessed  
3 based on the “[e]xtent and quality of offeror and key partners/subcontractor(s)[’]  
4 past performance in both research/development and design production of  
5 vehicles[,]” including performance on prior government and commercial contracts  
6 of similar size and scope. *Id.* at ¶ 51.

7 48. The Solicitation made clear that “the technical evaluation tak[es]  
8 priority” and “would be more important than Total Cost of Ownership in ultimately  
9 calculating the best value to the USPS.” *Id.* at ¶¶ 34, 37. Thus, the Solicitation  
10 indicated that USPS would not award a contract based on long-term fuel cost savings  
11 at the expense of safety, quality, manufacturing capabilities, and experience. *Id.*

12 49. In September 2017, the Workhorse/VT Hackney team delivered six  
13 vehicles for prototype testing under the NGDV Acquisition Program in compliance  
14 with the terms set forth in their USPS prototype contract. The prototype vehicles  
15 would be tested for emissions and fuel economy, ergonomics, aesthetics, handling,  
16 and durability.

17 50. Workhorse neither built the prototype itself (it was built by a Detroit  
18 company called Prefix) nor was it capable of producing other trucks like the  
19 prototype. From January 2020 through June 2020, Confidential Witness (“CW”) 1  
20 was a Workhorse employee on a team assigned to identify parts and components  
21 needed for production of the USPS vehicles and to estimate their costs. According  
22 to CW1, “The prototype was nice to look at, but had very little merit for production.”  
23 CW1 stated that when he joined the company, he had “very little to go on,” as there  
24 was no detailed design behind the prototype. Key documentation – for example, a  
25 description of how the suspension attached to the cab of the truck – was missing.  
26 CW1 was “quite surprised” by how little information Workhorse had regarding the  
27 USPS NGDV prototype it submitted, and concluded that the prototype was “just a

1 way for Workhorse to demonstrate to the USPS that they had a vehicle that could  
2 fulfill the USPS requirements.” While the prototype could technically fulfill the  
3 USPS requirements, the design deficiencies outlined by CW1 were precisely the  
4 issues USPS was concerned with in evaluating the most important Technical  
5 Evaluation factor, the “Reliability” of its “Design Quality.”

6 51. Further, the prototype submitted by Workhorse experienced numerous  
7 critical failures during testing. For example, a report by Fuzzy Panda Research on  
8 October 8, 2020, entitled “The ‘Brakes’ Fall off the USPS Story: Workhorse’s USPS  
9 Bit has Numerous Critical Failures” (the “Fuzzy Panda Report”),<sup>7</sup> described the  
10 following incident in Spring 2018, which Fuzzy Panda attributed to an inside source:

11 Workhorse rolled a USPS prototype truck down a hill accidentally after  
12 their parking brake failed causing a union USPS driver to be  
13 hospitalized after jumping out of the runaway vehicle. We think this  
14 debacle as well as the numerous other “critical failures” we will lay out,  
15 destroyed Workhorse’s chances of ever landing the USPS NGDV  
16 award.

17 Both Workhorse and USPS declined to comment on the Fuzzy Panda Report.

18 52. However, Workhorse later corroborated Fuzzy Panda’s description of  
19 the critical failures discovered during testing. Workhorse’s Fed. Claims Complaint  
20 against USPS, filed on June 16, 2021, revealed to the public for the first time the  
21 myriad reasons why USPS rejected Workhorse’s bid. The “posterchild” reason,  
22 which is remarkably similar to the story provided to Fuzzy Panda Research by its  
23 “inside source,” was an incident where “a flaw in Workhorse’s parking brake system  
24 caused Workhorse’s prototype vehicle to roll down an incline and into a ditch,  
25 injuring a test track driver.” Fed. Claims Complaint at ¶ 11. The “roll-away” incident

26 <sup>7</sup> The Fuzzy Panda Report can be downloaded here:  
27 <https://fuzzypandaresearch.com/category/workhorse-group/>

1 negatively impacted both the “Design Quality” and “Past Performance” evaluation  
2 factors in the USPS review, which both involved safety performance.

3 53. After the prototype testing phase completed in December 2019, USPS  
4 commenced the Production Phase by publishing a Request for Proposals for the  
5 production of the NGDV vehicles. All contractors who had completed prototype  
6 testing – regardless of the results of that testing – were eligible to submit proposals,  
7 which were due on July 14, 2020. At this point, the Prefix prototype had suffered  
8 numerous failures during testing, and Even if Workhorse had been granted all or part  
9 of the USPS contract, it would not have been capable of mass producing the truck  
10 designed by Prefix. However, in order to maintain and inflate the price of their stock,  
11 Defendants nonetheless submitted a proposal. The week their proposal was due,  
12 Hughes, Willison, and several members of Workhorse’s board of directors sold large  
13 quantities of Workhorse stock at artificially inflated prices.

14 54. On September 3, 2020, less than two months Workhorse submitted its  
15 proposal, USPS Contracting Officer Delores B. Waters sent Workhorse a  
16 “Deficiency List” identifying various “weaknesses” in Workhorse’s proposal, but  
17 acknowledged that the list was only representative of the problems, as it “indicated  
18 there were additional, unstated issues.” Fed. Claims Complaint at ¶ 62. The USPS’  
19 Deficiency list required Workhorse to submit a 99-page Deficiency Response, which  
20 it sent on September 25, 2020.

21 55. On October 21, 2020, Ms. Waters sent another email to Workhorse  
22 containing yet another list of issues related to Workhorse’s cost breakdown and  
23 maintenance. The USPS inquiry required Workhorse to again submit a response on  
24 October 28, 2020 to attempt to address these issues.

25 56. As part of the bidding process, Workhorse was subject to a non-  
26 disclosure agreement with the USPS (the “NDA”) which prevented it from sharing  
27 any non-public information regarding the contract or the bidding process. Rather  
28

1 than simply not discussing the contract, Hughes announced, in every earnings call  
2 from the start of the Class Period until the time the winner of the award was  
3 announced, that Workhorse was under an NDA and was only able to provide  
4 information which was already in the public domain. This statement suggested to  
5 the public that Workhorse was still in the running for the contract.

6 57. Workhorse executives used the NDA as a shield to protect them from  
7 discussing unfavorable information, even if it was only tangentially related to the  
8 USPS Contract. For example, during the May 6, 2020 earnings call, an analyst  
9 inquired further about the supply chain, namely, about the ability of Workhorse's  
10 suppliers to meet the needs of the USPS NGDV contract, in the event Workhorse to  
11 secure all or part of it. Schrader stated that he could not comment because of the  
12 USPS NDA. The analyst asked, "So you can't talk about the capabilities of a supply  
13 chain to serve the post office? Is that off-limits?" Schrader replied, "I would think  
14 it's a similar supply chain that would supply the current trucks that would supply a  
15 post office vehicle."

16 58. On January 25, 2021, just days after being sworn in, President Biden  
17 announced his goal to replace the government's vehicle fleet with electric vehicles  
18 assembled in the United States. Workhorse stock jumped from \$23.62 per share at  
19 open on January 25, 2021 to \$27.04 per share at open on January 26, 2021 – an  
20 increase of almost 14%.

21 59. In the following days, Schrader conducted several interviews in which  
22 he made materially mislead the market to believe that President Biden's  
23 announcement was an indication that Workhorse would be awarded the USPS  
24 NGDV contract. For example, on January 27, 2021, in an interview with Simranpal  
25 Singh on Singh's YouTube channel<sup>8</sup>, Schrader stated:

26  
27 <sup>8</sup> See <https://www.youtube.com/watch?v=dUiv6-BC1J8>

1 It's positive what we're seeing from the administration. President  
2 Biden, you know, just five days into his presidency has kind of pushed  
3 electric vehicles for all government agencies.

4 And on January 28, 2021, in an interview with Jack Spencer on Spencer's YouTube  
5 channel<sup>9</sup>, Schrader stated:

6 I think the President's announcement was huge, uh, for several reasons,  
7 right, it's 1. supportive of the EV market. It's 2. All-American, like he  
8 said, uh, all-American product buy, and I think he also said a lot about  
9 small businesses and purchasing, whether it be parts or final products  
10 from small businesses too, so I think that's huge. I think it's meaningful  
11 that he did this the fifth day into his presidency, right? He did it quickly,  
12 he didn't really wait, and so I think that putting a move on that is very  
13 quick too.

14 60. As a result of these positive statements, Workhorse stock continued to  
15 climb, closing at \$34.32 per share on January 29, 2021 – an increase of over \$10 per  
16 share in a one-week time period.

17 61. Despite Schrader's positive public statements on the USPS NGDV  
18 contract in these interviews, on January 26, 2021, just one day after Biden's  
19 announcement, Hughes, Willison, Ackerson, and multiple board members ***sold large***  
20 ***quantities of their Workhorse stock***. Willison exercised an option to purchase  
21 150,000 shares of Workhorse at \$0.932/share, then sold those 150,000 shares for  
22 \$30/share for ***overall proceeds of \$4,360,000***. The 150,000 shares represented  
23 ***approximately 45% of the stock owned by Willison***. Similarly, on January 26, 2021  
24 Hughes exercised options to acquire 200,000 shares of Workhorse stock at  
25 \$5.28/share, then sold 100,000 shares for \$28/share and 100,000 shares for  
26

27 <sup>9</sup> See <https://www.youtube.com/watch?v=rY7g15hOMrA>

1 \$30/share, for ***total one-day proceeds of \$4,744,000***. The 200,000 shares represented  
2 ***approximately 40% of the stock owned by Hughes***. Then, just a few days later, on  
3 February 1, 2021, Hughes exercised options to buy a further 25,000 shares of  
4 Workhorse stock at \$0.97/share, then sold those shares for \$35.97/share, for  
5 proceeds of \$875,000. On January 27, 2021 Ackerson sold 3,222 shares of  
6 Workhorse stock for \$40/share and 3,223 shares for \$35/share, for proceeds of over  
7 \$241,000. While the 6,445 shares only represent approximately 6.5% of the stock  
8 owned by Ackerson, the Form 4 reporting the sale contains no statement that the sale  
9 was made pursuant to a Rule 10b-5 Plan.

10 62. Additionally, on January 26, 2021, Board Member Gerald Budde sold  
11 10,000 shares of Workhorse stock for proceeds of over \$300,000 and Board Member  
12 H. Benjamin Samuels and his related entities sold almost 300,000 shares of  
13 Workhorse stock for proceeds of approximately \$9 million.

14 63. If Hughes and Willison had been confident Workhorse would be  
15 awarded the USPS NGDV contract – a catalyst that would no doubt cause the price  
16 of the stock to skyrocket –they would not each sell nearly half the stock they owned  
17 in the company just days before the award was to be announced. Given that Hughes  
18 and Willison were in possession of the material, non-public information that  
19 Workhorse would not be granted the contract, and utilized this information for their  
20 own personal profit, these facts strongly support the inference of scienter.

21 64. On February 23, 2021, USPS announced via press release that it was  
22 rewarding the entirety of the 10-year, multi-billion dollar NGDV contract to  
23 Oshkosh Defense (“Oshkosh”). The press release stated that “[t]he vehicles will be  
24 equipped with either fuel-efficient internal combustion engines ***or battery electric***  
25 ***powertrains*** and can be ***retrofitted to keep pace with advances in electric vehicle***  
26 ***technologies.***” The press release did not mention Workhorse at all.

1 65. On this news, the price of Workhorse stock plummeted, from opening  
2 at \$28.29 per share all the way down to an intra-day low of \$12.50 per share, closing  
3 around \$16.43 per share.

4 66. The next day, February 24, 2021, Workhorse published a press release  
5 (not filed on SEC Form 8-K, despite the clear materiality of the subject matter<sup>10</sup>),  
6 titled “Workhorse Provides Corporate Update.” The press release stated:

7 On February 23, 2021 the USPS issued a press release announcing that  
8 it has made an award under the NGDV contract to a competing  
9 finalist.... After being informed of the USPS decision, the Company  
10 has requested, pursuant to the bid process rules, additional information  
11 from the USPS and is awaiting a response at this time. *The Company*  
12 *intends to explore all avenues that are available to non-awarded*  
13 *finalists in a government bidding process.*

14 67. On February 25, 2021, Workhorse granted massive stock awards to the  
15 Individual Defendants, other executives, and the Workhorse Board members. The  
16 purported value of this stock was \$15.13/share, the closing price on February 24,  
17 2021. From this time until the end of the Class Period, the Individual Defendants did  
18 not sell any further stock.

19 68. On March 3, 2021 Workhorse met with USPS representatives to discuss  
20 the award and further specifics of the USPS selection process. The details of the  
21 March 3 meeting were not publicly disclosed at the time, however the Fed. Claims  
22 Complaint indicates that USPS debriefed Workhorse on the weaknesses USPS  
23 identified in their proposal, and explained that despite Workhorse’s touted price

24 \_\_\_\_\_  
25 <sup>10</sup> 69 FR 15594 states that “A report on this form is **required** to be filed or furnished, as applicable,  
26 upon the occurrence of any one or more of the events specified in the items in Sections 1-6 and 9  
27 of this form.” (emphasis added). The events include Entry into a Material Definitive Agreement,  
28 Termination of a Material Definitive Agreement, Completion of Acquisition or Disposition of  
Assets, and Results of Operations and Financial Condition. Additionally, registrants may file Form  
8-Ks to disclose any other information that the registrant deems of importance to security holders.



1 savings with its EVs, Workhorse still came in “second” with regard to Total Cost of  
2 Ownership. Fed. Claims Complaint at ¶ 74.

3 69. According to Workhorse’s Fed. Claims Complaint, shortly after the  
4 March 3, 2021 debriefing, Workhorse submitted a “disagreement to the USPS in  
5 accordance with 39 CFR § 601.107.” *Id.* at ¶ 75.

6 70. Ten days later, on March 22, 2021, USPS responded to Workhorse’s  
7 “disagreement” with a strongly worded letter, which Workhorse characterized as a  
8 “lengthy screed aggressively attacking Workhorse....” *Id.* at ¶ 76. In addition to  
9 pointing out the “‘critical’ deficiencies in Workhorse’s proposal,” some of which  
10 had already been specifically raised to Workhorse, the USPS clarified that  
11 Workhorse was ranked last among the competing proposals in Technical Ranking,  
12 the most important part of the USPS valuation. *Id.* at ¶¶ 77, 81. In fact, the Technical  
13 Score (although conveniently redacted from Workhorse’s Complaint) was so low  
14 that it caused Workhorse to also rank last in Best Value Ranking, despite ranking  
15 second in Total Cost of Ownership. *Id.* at ¶ 81.

16 71. Although heavily redacted, Workhorse’s Fed. Claims Complaint  
17 indicates the USPS identified “major” and “significant weaknesses” in Workhorse’s  
18 Design Quality and Technical Approach, the most important analysis in the  
19 Technical Evaluation Factors, and “faulted Workhorse multiple times” for the  
20 “rollaway accident” attributable to a defective parking brake design. *Id.* at ¶¶ 101-  
21 109. While Workhorse complains that “double-counting” this negative incident  
22 against the Company was unfair, clearly the incident affected multiple different  
23 categories of evaluation including Reliability, Safety, and Prototype Performance.  
24 *Id.* at ¶¶ 136. Among the many subcategories evaluated during the process, the USPS  
25 identified deficiencies in Reliability, Maintainability, Safety & Ergonomics,  
26 Supplier Capability, Production & Delivery, Service & Parts, Quality, Past  
27 Performance, Prototype Performance, and Prior Performance. *Id.* at ¶¶ 101-145. In

1 addition to safety and quality concerns, the USPS was clearly concerned with  
2 Workhorse’s “scale-up capability to deliver the vehicles on schedule,” as its  
3 “analysis of Workhorse’s Production & Delivery capabilities [was] devoid of any  
4 mention of Workhorse’s manufacturing plant in Union City, Indiana,” and its picnic  
5 table production line, and instead “focused on Workhorse’s partnership,” which it  
6 also found inadequate to perform the contract. *Id.* at ¶¶ 123. The USPS also criticized  
7 Workhorse’s lack of experience, ignoring Workhorse’s touted “purchase orders”  
8 with “blue-chip customers,” and highlighting that Workhorse had “buil[t] fewer than  
9 1,000 vehicles.” *Id.* at ¶ 144. By Workhorse’s own characterization, the USPS  
10 considered “Workhorse as a ‘startup’ company without the experience or capability  
11 to produce the NGDV.” *Id.* at ¶ 185.

12 72. The USPS also stated that Workhorse displayed a “lack of credibility  
13 with the Federal government,” and “castigated Workhorse” for their public  
14 statements regarding the NGDV program. *Id.* at ¶¶ 88-89. In fact, the USPS, who  
15 had reviewed Workhorse’s proposal, tested its prototype, and conferred with  
16 Workhorse regarding deficiencies in its proposal – all non-public information not  
17 available to investors – accused Workhorse with not only violating the NDA with  
18 respect to Defendants’ public statements, but also cited the USPS’s support of *this*  
19 *very litigation* as a reason that it could have rejected Workhorse’s proposal “even if  
20 the USPS had rated its proposal the best value.” *Id.* at ¶ 89.

21 **B. Workhorse Creates a Fictitious ‘Backlog’ of Vehicle Orders**

22 73. On May 30, 2018, Workhorse announced via 8-K that it had entered  
23 into an agreement with United Parcel Service, Inc. (“UPS”) for 1,000 all-electric  
24 package delivery vehicles (the “UPS Agreement”).

25 74. The UPS Agreement, which was attached to Workhorse’s May 30,  
26 2018 8-K, provided for delivery of the vehicles in two phases. In phase 1, Workhorse  
27 would provide UPS with 50 prototype vehicles as a test fleet, which would be tested

1 across multiple geographic regions for durability. In phase 2, UPS would take  
2 delivery of the remaining 950 vehicles.

3 75. The UPS Agreement stated:

4 (a) Phase 2 “will be *on a timeframe decided by Buyer at Buyer’s*  
5 *sole discretion.*”

6 (b) “Buyer will determine, at its sole discretion, the level of success  
7 of the 50 Vehicle test.”

8 (c) “Buyer may reduce the quantity of the balance of the Order (*or*  
9 *cancel the balance of the Order*) depending on the level of  
10 success achieved during the phase 1 testing, as determined in  
11 Buyer’s sole discretion.”

12 76. Defendant Hughes, who was COO of the Company at the time, signed  
13 the UPS Agreement on behalf of Workhorse, so he was intimately familiar with the  
14 details of the deal.

15 77. While it appears UPS took delivery of the 50 prototype vehicles, to date  
16 UPS has not requested delivery of the remaining 950 vehicles. In fact, in its 2019  
17 Sustainability Report<sup>11</sup>, UPS announced it had placed an order for 10,000 EVs from  
18 “U.K.-based startup Arrival.” Workhorse was not mentioned in the sustainability  
19 report at all.

20 78. Despite the lack of assurance that UPS would ever take delivery of  
21 these vehicles, from May 2018 onward Defendants used the 950 number to inflate  
22 Workhorse’s purported “backlog.” During the Class Period, Defendants repeatedly  
23 represented to investors that the UPS order was on the precipice of being fulfilled,  
24 for example:

25  
26  
27 <sup>11</sup> The UPS 2019 Sustainability Report can be found at this link:  
<https://sustainability.ups.com/media/2019-progress-report.pdf>

- 1 • May 6, 2020 earnings call, Schrader states: “we have the backlog out there in  
2 the first place with UPS... we’re seeing customers very positive about our  
3 trucks and it’s more, how soon can we get them.
- 4 • August 10, 2020 earnings call, in response to a question about the UPS order,  
5 Hughes states: “We are continuing to make sure that the trucks that we do  
6 deliver to UPS knock it out of the park if you will. So rather than having the  
7 first few vehicles go to them, *we’re working with their implementation*  
8 *schedule across the different depots where they’re going to place these*  
9 *vehicles* starting in the California marketplace as we understand it today.”
- 10 • November 9, 2020 earnings call, Hughes states: “UPS remains our premier  
11 customer, if you will, because they have been along with us for the longest  
12 time, they collaborated with us on this C-Series design... So *we feel strong.*  
13 *We are happy where we are with UPS. We will be delivering new vehicles.*  
14 And the real key for them is us deliver us a high-quality vehicle over and over  
15 again, right?... So the first vehicle we deliver them, we want to hit it out of the  
16 park, and we want to make sure it is right.”
- 17 • March 1, 2021 earnings call, Hughes states: “UPS, it’s a combination,  
18 obviously, we haven’t got production now, but also is when and where UPS  
19 would love to take their vehicles first. They have a depot in California and  
20 San Diego that’s already with infrastructure. They love to get the voucher  
21 program too. So ideally, I think their first trucks would ideally go to  
22 California.”

23 79. Including the UPS order in its purported backlog allowed the small  
24 startup, which had only previously produced a handful of prototype trucks, to appear  
25 legitimate and stable.

26 80. The UPS order was not the only suspicious order in Workhorse’s  
27 backlog. On July 23, 2020, Workhorse published a press release (not filed on SEC

1 Form 8-K, despite the materiality of the announcement) stating that it had secured  
2 an order of 20 trucks from a new electronic vehicle start-up, eTrucks. In the press  
3 release Hughes stated “Bill [Hamilton, Managing Partner of eTrucks] and his partner  
4 Brian Carr are building a valuable sales and distribution platform for an underserved  
5 market. The SMB fleet operator represents a major opportunity for additional sales.”

6 81. eTrucks articles of organization, signed by Carr (not Hamilton), were  
7 filed with the Ohio Secretary of State on June 22, 2020 – about one month prior to  
8 the July 23, 2020 press release. CW2, an Executive Director of Human Resources,  
9 stated that Brian Carr was an associate of Defendant Willison.

10 82. The eTrucks website, <https://etrucks.webflow.io/>, is registered to a  
11 British Indian Ocean Territory domain. The website does not contain a business  
12 address, headquarters, information on the history of the company, or any links other  
13 than a generic “contact us” form. Instead, it appears to be a promotional site  
14 advertising Workhorse trucks, with banners advertising “Drive a Workhorse truck!”  
15 eTrucks has no other online presence.

16 83. To date, eTrucks has not taken delivery of or paid for the 20 trucks  
17 mentioned in the July 23, 2020 press release.

18 84. Based on these facts, it appears that the entity eTrucks was created  
19 solely for the purpose of placing an order of Workhorse trucks, making it appear the  
20 backlog was larger and customer base was broader than in reality.

21 85. On November 9, 2020, Defendants announced via a press release (not  
22 filed on SEC Form 8-K, despite the materiality of the announcement) that it had  
23 received a new purchase order of 500 trucks from Pritchard Companies. In the press  
24 release, Hughes is quoted as saying “With this significant order and agreement from  
25 Pritchard, we can build upon our nationwide distribution network and expand the  
26 number of potential fleet customers that will be able to operate and own a Workhorse  
27

1 delivery truck.” The press release did not indicate when or where Pritchard would  
2 take delivery of or pay for the trucks.

3 86. To this day, it is unclear how many of the 500 vehicles have already  
4 been sold to end customers, how many Pritchard intends to take delivery of in 2021,  
5 or whether Pritchard has experienced any user demand at all for the Workhorse  
6 trucks. When asked about this in the May 10, 2021 earnings call, Schrader simply  
7 stated, “So I don’t think they want us to announce exactly kind of what they are  
8 doing with their customers and how they are approaching or how they are going to  
9 deliver them.”

10 87. On January 4, 2021, Workhorse published a press release (not filed with  
11 the SEC on Form 8-K, despite the materiality of the announcement) announcing that  
12 it had “received a purchase order for 6,320 C-Series all-electric delivery vehicles  
13 from Pride Group Enterprises.” The press release warned that the order was subject  
14 to various production and delivery conditions, but also contained an upbeat  
15 statement from Hughes: “Our new agreement with Pride marks our largest individual  
16 order to-date and expands our sales channel internationally into Canada for the first  
17 time... This large order solidifies our first-mover advantage and indicates the  
18 heightened interest in our last mile delivery products.”

19 88. The Pride Group did not create its own press release regarding the  
20 acquisition of the trucks, nor did it post Workhorse’s press release on its website. In  
21 fact, Workhorse is not mentioned anywhere on Pride’s website. Pride’s sales  
22 website, PrideTruckSales.com, only shows heavy trucks and transport trailers, and  
23 there is no information about how one could acquire a Workhorse last-mile delivery  
24 truck. These facts indicate that, similar to the UPS contract, there is no assurance  
25 Pride will take delivery of the full order of 6,000+ trucks.

26 89. Workhorse currently claims its backlog is approximately 8,000 trucks,  
27 however, in truth, all the orders that make up Workhorse’s backlog are highly

1 conditional, cancellable, and, in some cases, dependent on non-existent customer  
2 demand.

3 **C. Like its Sister Company Lordstown Motors, Workhorse Has No**  
4 **Ability to Manufacture Vehicles at Scale**

5 90. In February 2019, Burns resigned from Workhorse and Hughes was  
6 promoted from COO to CEO. A few months later, Burns went on to found  
7 Lordstown Motors Corporation (“Lordstown”). On November 7, 2019, Workhorse  
8 announced an intellectual property licensing agreement under which Workhorse  
9 granted Lordstown an intellectual property license related the W-15, an electric pick-  
10 up truck, in exchange for a 10% non-dilutive equity stake in the company.  
11 Workhorse was also entitled to a license fee equal to 1% of the gross sales on the  
12 first 200,000 trucks sold. Workhorse included a note describing this agreement with  
13 Lordstown in each of its earnings releases during the Class Period and often  
14 discussed the agreement in earnings calls.

15 91. Just as he began doing at Workhorse with the UPS backlog, Burns  
16 inflated the backlog at Lordstown using conditional and uncertain pre-orders of this  
17 electric truck, re-christened as the Endurance, to make the company appear stable  
18 and viable. Burns conducted a high-profile media campaign promoting the  
19 Endurance, even bringing a prototype truck to the White House for a photo  
20 opportunity with former president Donald Trump. At the initial unveiling of the  
21 Endurance in June, 2020 Burns stated that Lordstown already had 27,000 pre-orders  
22 for the truck. In November, 2020, Burns said there were 50,000 “serious” orders,  
23 and in January, 2021 the number shot up to 100,000. Workhorse often parroted these  
24 false statements about the Endurance pre-sales, for example, in an earnings call on  
25 August 10, 2020 Defendant Hughes stated: “To date [Lordstown] has disclosed that  
26 it has received over 27,000 pre orders for the vehicles representing over \$1.4 billion  
27 of potential revenue.”



1 92. As the number of purported pre-orders increased, Lordstown  
2 announced that they had entered into a definitive merger agreement with  
3 DiamondPeak, through which the combined company would be listed on the  
4 NASDAQ stock exchange under the new ticker symbol “RIDE.” According to an  
5 article in The New York Times, DiamondPeak was a special purpose acquisition  
6 company (“SPAC”) created by David Hamamoto, a former Goldman Sachs  
7 executive who had raised \$250 million from big Wall Street investors, which he  
8 would have had to return if he could not find a company to merge with.<sup>12</sup> The article  
9 states Mr. Hamamoto conducted very little due diligence on Lordstown or Steve  
10 Burns, and “the deal came together in weeks.” Workhorse maintained its 10% stake  
11 in Lordstown, which, after the merger, Workhorse claimed was valued at nearly  
12 \$285 million. In an earnings call on March 1, 2021, Hughes reported that the stake  
13 in LMC was valued at \$330 million as of December 31, 2020.

14 93. However, the Lordstown scheme was exposed, and is now considered  
15 one of the “biggest electric vehicle scams in history.”<sup>13</sup> Burns resigned from  
16 Lordstown on June 14, 2021, after admitting that the pre-sales were fraudulent and  
17 Lordstown did not have enough money to begin producing the Endurance.<sup>14</sup>  
18 Lordstown is now being investigated by both the Justice Department and the SEC  
19 with regards to the DiamondPeak merger and the fictitious pre-sales of the  
20 Endurance.<sup>15</sup> A Class Action Securities lawsuit is also pending against Lordstown,  
21

22 <sup>12</sup> See <https://www.nytimes.com/2021/07/13/business/lordstown-motors-dealmaker.html>

23 <sup>13</sup> See <https://techstartups.com/2021/OS/08/biggest-electric-vehicle-scam-history-lordstown-motors-ev-startup-valued-5-3-billion-now-sec-investigation-alleged-100000-fake-preorders-zero-car-delivery>

24 <sup>14</sup> See <https://www.nytimes.com/2021/06/14/business/lordstown-motors-steve-burns-julio-rodriguez.html>

25 <sup>15</sup> See [https://www.wsj.com/articles/justice-department-is-probing-lordstown-motors-11625239730?mod=article\\_inline](https://www.wsj.com/articles/justice-department-is-probing-lordstown-motors-11625239730?mod=article_inline);  
26 <https://www.wsj.com/articles/electric-truck-startup-lordstown-motors-discloses-justice-department-investigation-11626443066>  
27

1 Burns, and other LMC executives in the Northern District of Ohio.<sup>16</sup> Lordstown has  
2 yet to produce a single non-prototype truck.

3 94. Just as Lordstown did not have the capacity to mass produce the  
4 Endurance, Workhorse did not, and does not currently, have the capacity to mass  
5 produce delivery trucks.

6 95. CW3, a Materials Manager who left the Company in February 2021,  
7 stated that as of the end of 2020 there was not an assembly production in place, and  
8 that each vehicle had to be made individually. At the time of CW3's departure, there  
9 were still some basic design issues, such as parts not fitting together correctly, and  
10 workers were "struggling to finish vehicles." Additionally, CW3 stated "a lot of parts  
11 still required engineering approval."

12 96. CW2, an Executive Director of Human Resources from December 2019  
13 through June 2020, who reported directly to Defendant Schrader, stated that  
14 Workhorse "never had" an actual manufacturing facility to produce vehicles at the  
15 Union City, Indiana facility because there was "no automation, zero automation."  
16 CW2 stated that workers assembled vehicles – which he believed were mostly just  
17 prototype vehicles – on wooden workshop tables. Further, during his tenure, there  
18 were only 12 employees in the plant, including engineers. At least four engineers  
19 left Workhorse during CW2's tenure. When asked if there was a timeline for hiring  
20 the workers necessary to increase production, CW2 said, "Hell no," and even if there  
21 had been, the Company had "no cash flow" by which to go forward with such hiring.

22 97. In order to remedy this situation, CW2 stated COO Rob Willison and  
23 an associate of his, Brian Carr, formed a staffing company called Electric Vehicle  
24 Fleet Services ("EVFS") that had "no history" but was retained by Workhorse to  
25 provide temporary staffing for everything from engineers to sanitation services. Carr  
26

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27 <sup>16</sup> See Rico V. Lordstown Motors Corp. Et Al., Case No. 4:21-cv-616 (N.D. Ohio).

1 is also a partner in eTrucks – a fictitious company which placed an order of 20  
2 Workhorse trucks in July, 2020. According to CW2, EVFS billed Workhorse  
3 upwards of 60% to 70% more than the hourly rate mark-up for temporary staffing.  
4 While the EVFS website was disabled at some point in June, 2021, a cached version  
5 of the website lists Brian Carr as CEO of the company.

6 98. When CW2 reported his concerns over the high mark-ups being  
7 charged by EVFS to the Company’s controller, he began to feel that Workhorse was  
8 “looking to get rid of me.” Even though CW2 “didn’t do payroll” he was terminated  
9 soon after expressing his concerns for “payroll discrepancies.”

10 99. The Fuzzy Panda Report, published on October 8, 2020, revealed that  
11 Fuzzy Panda had sent investigators to the Union City facility and Workhorse’s  
12 Loveland, Ohio headquarters several times during the month of September, 2020.  
13 The investors corroborated the statements made by the confidential witnesses in this  
14 case. On one weekday visit, the investigators discovered “~6 people in [an]  
15 otherwise empty R&D/production facility.” There was no automation: “[a]ll  
16 production at the facility still occurs MANUALLY without a sophisticated assembly  
17 line or any automation in place.” Workhorse employees invited the investigators into  
18 “both Union City Assembly Plant and the ‘secure’ area of their Loveland R&D  
19 facility,” and even let them take photographs of an old engine – which Fuzzy Panda  
20 points out was predominantly assembled from Chinese parts, not all-American as  
21 Workhorse often claimed.

22 100. The Fuzzy Panda investigators also had the following conversations  
23 with Workhorse employees:

24 *Union City, Indiana–September 2020 Investigator invited inside*  
25 *Assembly Line Plant*

26 Investigator: **Are those trucks for a particular customer?**

27 Employee: **No, those are just show units**

1 Investigator: What does that mean like **they are prototypes?**

2 Employee: Yeah, they're not production

3 Investigator: **Are you making any production units for customers**  
4 **right now?**

5 Employee: **No, not right now**

6 Investigator: **Is this the only facility where you make units or if**  
7 **there's another one on site?**

8 Employee: **No, this is the only production line**

9 Investigator: How many of them they do make in a week or a month?

10 Employee: **These are just the show units so they're not really doing**  
11 **that**

12 *Loveland, Ohio – September 2020 Investigator Conversation within*  
13 *R&D facility:*

14 Employee: ... **really most of the production line is in Union City.**

15 Investigator: **Is it manual or automated?** Here looks like everything  
16 is manual?

17 Employee: **Here [Loveland] it's all manual, but there [Union City]**  
18 **it's all in a production line.**

19 Investigator: **So there's automation there?**

20 Employee: **No, it's still manual,** but it's more of a process there, here  
21 is more R&D.

22 Fuzzy Panda Report at 12 (emphasis in original).  
23  
24  
25  
26  
27

1           101.       An April 8, 2020 video published on Workhorse’s YouTube channel,  
2 in which Schrader touts the efficacy of Workhorse’s safety practices during the  
3 COVID-19 pandemic, further corroborates the fact that there was no automation at  
4 the Union City facility<sup>17</sup>. In the video, a handful of workers are shown assembling  
5 pieces of electric motors on simple wooden benches:



18  
19  
20           102.       The confidential witnesses in this case and the investigators from Fuzzy  
21 Panda Research make clear that the wooden benches in the empty warehouse shown  
22 in this video are the full extent of Workhorse’s production capability.

23           103.       Despite the lack of automation, assembly lines, and proper staffing,  
24 From March 2020 through the end of October, 2020 Workhorse maintained guidance  
25 that it could produce 300-400 trucks by the end of the fourth quarter, 2020 (“Q420”).  
26 The Individual Defendants repeatedly assured investors Workhorse was on the

27 <sup>17</sup>See <https://www.youtube.com/watch?v=Efdt5kZL86E>



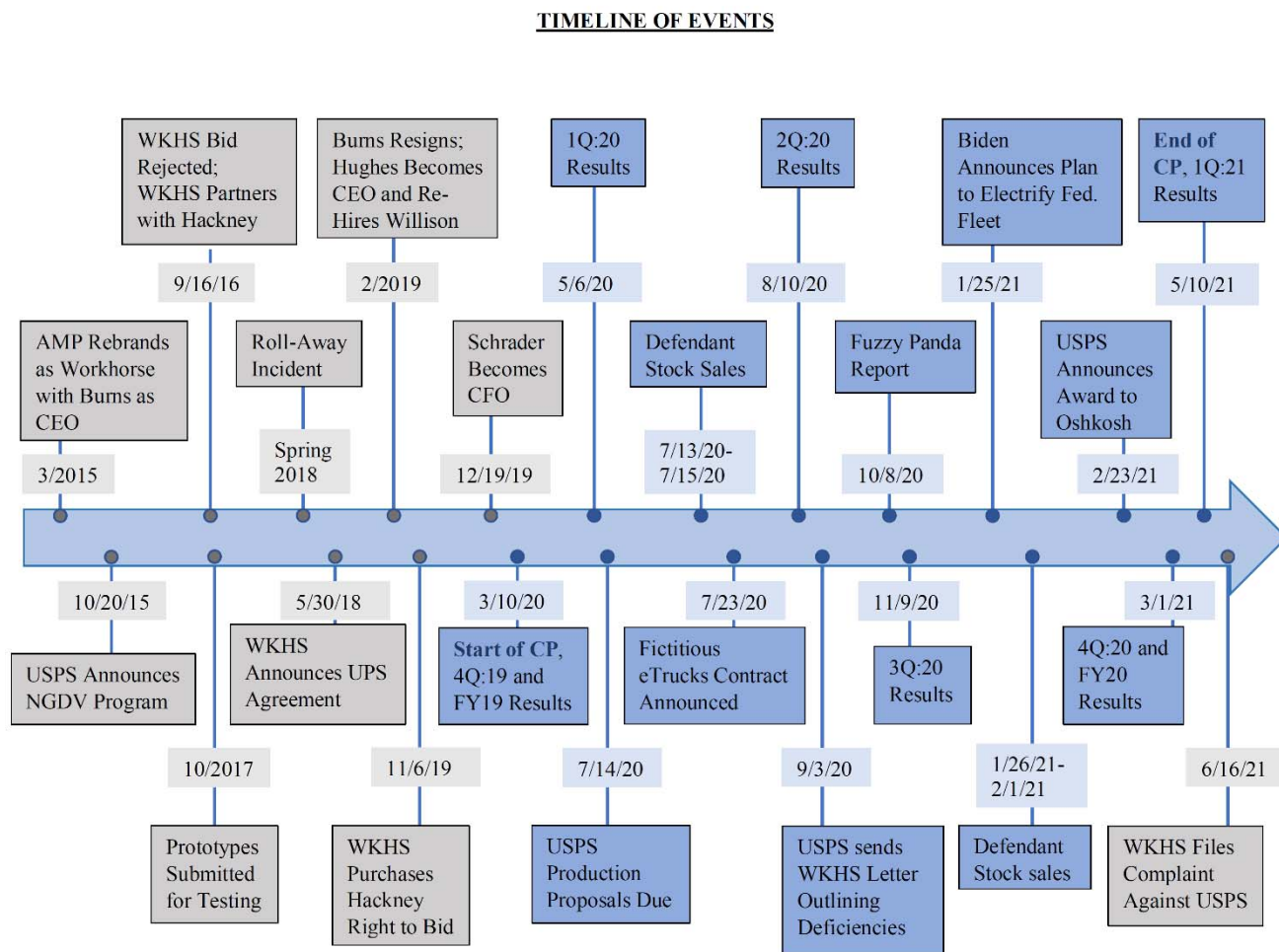
1 precipice of ramping up production, and that soon the Union City facility would be  
2 capable of producing 5 trucks per day, 10 trucks per day, 100 trucks per month, and  
3 so on. Specific statements made by Defendants will be discussed in more detail  
4 below.

5 104. When asked about Workhorse’s claims that it would be able to produce  
6 300-400 trucks by the end of 2020, CW2 stated this was an “absolute lie,” that there  
7 was “no way” Workhorse would have been able to meet this target because there  
8 was “no automation.”

9 105. CW4, a Buyer/Planner employed at Workhorse from March 2020  
10 through October 2020, similarly did not believe Workhorse had the capacity to  
11 produce 300-400 trucks by the end of 2020, stating that the Company “booked  
12 numbers they didn’t have.” However, CW4 was hesitant to speak more on this issue  
13 because she had signed a non-disclosure agreement with Workhorse at the time she  
14 left the company.

15 106. On November 9, 2020, Defendants revealed that Workhorse would not  
16 be making 300-400 trucks in 2020, in fact, it had only produced 7 trucks in the whole  
17 third quarter of 2020. Instead of admitting that the company had never had the  
18 capacity to make 300-400 trucks in two months, Defendants blamed the delay on  
19 supplier constraints and employee absences due to COVID-19. However, Schrader  
20 assured analysts that Workhorse would be “getting to ***100 trucks per month by the***  
21 ***- no little later than the first quarter of 2021*** and then getting to ***200 trucks a month***  
22 ***by no later than the second quarter of 2021.***” Based on Defendants’ assurances that  
23 the delays were only temporary, as well as the prospect of the USPS announcing an  
24 awardee in the first quarter of 2021, the stock price began to steadily rise.

107. Below is a visual timeline of events in this case:



**RULE 10b-5(a) AND (c) SCHEME LIABILITY**

108. Throughout the Class Period, Defendants engaged in a scheme and course of conduct to defraud Plaintiffs and others similarly situated through its involvement in the USPS NGDV contract, its false impression that the Company was capable of mass production, its fictitious “backlog” of vehicle orders, as well as its related material misrepresentations.



1           **A. The USPS Contract**

2           109.       From the time its original bid was rejected in 2016, Defendants knew  
3 or should have known that it did not have the skill and production capacity necessary  
4 to design and manufacture a 165,000-truck order from the USPS. Workhorse’s  
5 engineers did not even have the knowledge to use the software required for the  
6 bidding process. However, in an attempt to give their fledgling company an air of  
7 legitimacy, Workhorse partnered with an established company, VT Hackney, whose  
8 bid had been accepted. When VT Hackney dropped out, instead of acknowledging  
9 that a start-up with no manufacturing capacity would be unlikely to secure such a  
10 large contract on its own, Workhorse purchased its partner’s right to bid for just \$7  
11 million. If VT Hackney truly believed it had a chance of securing a contract worth  
12 over \$6 billion, it is highly unlikely it would sell the rights for a mere \$7 million.

13           110.       Despite Workhorse’s later claims to the contrary, the prototype  
14 submitted by Workhorse was designed and manufactured by a Detroit company,  
15 Prefix. According to CW1, as of June 2020, Workhorse did not even have a complete  
16 list of the parts needed to produce the prototype, which he stated “was nice to look  
17 at, but had very little merit for production” and was “just a way for Workhorse to  
18 demonstrate to the USPS that they had a vehicle that could fulfill the USPS  
19 requirements.” Creating the impression that this prototype was viable for mass  
20 production and a frontrunner for the USPS NGDV contract was false and fraudulent,  
21 especially given that the Reliability of the design and Prototype Performance were  
22 critical factors in the USPS’ evaluation of any proposal.

23           111.       The prototype submitted by Workhorse suffered numerous critical  
24 failures during testing. During one incident, the parking brake on a Workhorse truck  
25 failed, causing the truck to roll down a hill. The USPS driver testing the truck was  
26 seriously injured and sent to the hospital. By Workhorse’s own admission, USPS  
27 knew from this time forward that it would not select the Workhorse prototype, and

1 it repeatedly listed the “roll-away incident” among the top reasons that it “would  
2 never have selected [Workhorse’s NGDV] for its flagship vehicle.” Workhorse was  
3 aware of the roll-away incident and the other critical failures during testing, and  
4 therefore, by the end of testing, Defendants knew or should have known that  
5 Workhorse was no longer in the running for the contract. However, Defendants  
6 continued to fraudulently represent that Workhorse was a frontrunner for the award.

7 112. Of the six contractors who had submitted prototypes, only four  
8 submitted proposals in July, 2020. The other two contractors knew, after the results  
9 of the testing, their models would not be likely to secure the contract, and withdrew.  
10 Even though Workhorse also knew or should have known that it was unlikely the  
11 Workhorse model would be chosen for the award, admitting this publicly would  
12 have sunk the stock price, which was steadily rising at the time. Instead, Defendants  
13 forged ahead and submitted a futile proposal that could not win the contract given  
14 the USPS’ evaluation factors. The same week the proposal was due, several  
15 Individual Defendants and members of the Board of Directors sold large amounts of  
16 Workhorse stock while the price was artificially inflated.

17 113. As part of the bidding process, Workhorse was subject to an NDA  
18 which was supposed to prevented it from discussing the contract or the bidding  
19 process. Rather than simply not discussing the contract, Hughes announced, in every  
20 earnings call until the time the winner of the award was announced, that Workhorse  
21 was under an NDA and was only able to provide information which was already in  
22 the public domain. This statement falsely implied that Workhorse was still in the  
23 running for the contract. Moreover, Defendants, particularly Defendant Schrader,  
24 repeatedly discussed the reasons Workhorse was purportedly well-positioned to win  
25 the contract award (*i.e.*, Biden’s goal to electrify federal vehicles discussed below),  
26 while omitting that USPS’ evaluation focused on factors related to reliability,  
27

1 manufacturing, safety, and experience that precluded Workhorse from winning the  
2 contract, despite the fact that its proposal was all-electric.

3 114. Similarly, Workhorse used the NDA as a tool in its fraudulent scheme  
4 to mislead investors by stating that the NDA prevented it from revealing unfavorable  
5 information, even information that was negative information about the Company  
6 generally that applied to its business notwithstanding the NGDV contract. For  
7 example, during the May 6, 2020 earnings call, an analyst inquired further about the  
8 supply chain, namely, about the ability of Workhorse's suppliers to meet the needs  
9 of the USPS NGDV contract, were Workhorse to secure all or part of it. Schrader  
10 stated that he could not comment because of the USPS NDA. The analyst asked, "So  
11 you can't talk about the capabilities of a supply chain to serve the post office? Is that  
12 off-limits?" Schrader replied, "I would think it's a similar supply chain that would  
13 supply the current trucks that would supply a post office vehicle." In truth,  
14 Workhorse's suppliers barely had the capacity to support Workhorse's production at  
15 the time, which ended up being less than 20 trucks for the whole year 2020.  
16 Defendant Schrader used the USPS NDA to avoid discussing these issues, thereby  
17 continuing to perpetuate Defendants' fraudulent scheme.

18 115. On January 25, 2021, just days after being sworn in, newly elected  
19 President Biden announced his goal to replace the government's vehicle fleet with  
20 electric vehicles. President Biden did not say anything specifically about the USPS  
21 NGDV contract or in any way endorse Workhorse electric vehicles. However, after  
22 this announcement, Workhorse stock jumped from \$23.62 per share at open on  
23 January 25, 2021 to \$27.04 per share at open on January 26, 2021 – an increase of  
24 almost 14%.

25 116. In the following days, Defendant Schrader did several interviews  
26 strongly hinting that President Biden's announcement was an indication that  
27 Workhorse would be awarded the USPS NGDV contract, making statements such

1 as “***I think the President’s announcement was huge***, uh, for several reasons, right,  
2 it’s 1. supportive of the EV market. It’s 2. All-American, like he said, uh, all-  
3 American product buy, and I think he also said a lot about small businesses and  
4 purchasing, whether it be parts or final products from small businesses too, so I think  
5 that’s huge.” Schrader also told one interviewer that Workhorse would be adding a  
6 “government division” to its business portfolio. As a result of these positive  
7 statements, Workhorse stock continued to climb, closing at \$34.32 per share on  
8 January 29, 2021 – an increase of over \$10 per share in a one-week time period.

9 117. Schrader’s positive statements on the USPS NGDV contract in these  
10 interviews are undermined by the fact that, on January 26, 2021, Hughes, Willison,  
11 Ackerson, and multiple board members ***sold large quantities of their Workhorse***  
12 ***stock***. For example, Willison exercised an option to purchase 150,000 shares of  
13 Workhorse at \$0.932/share, then sold those 150,000 shares for \$30/share for  
14 proceeds of \$4,360,000. The 150,000 shares represented approximately 45% of the  
15 stock owned by Willison. Similarly, Hughes exercised options to acquire 200,000  
16 shares of Workhorse stock at \$5.28/share, then sold 100,000 shares for \$28/share  
17 and 100,000 shares for \$30/share, for proceeds of \$4,744,000. The 200,000 shares  
18 represented approximately 40% of the stock owned by Hughes. Then, a few days  
19 later, on February 1, 2021, Hughes exercised options to acquire a further 25,000  
20 shares of Workhorse stock at \$0.97 per share and sold them at \$35.97 per share, for  
21 proceeds of \$875,000. Had Defendants believed Workhorse would be awarded the  
22 USPS NGDV contract – which Defendant Schrader stated would be  
23 “transformative” for the Company and stock analysts roundly agreed would cause a  
24 surge in Workhorse’s stock price – they would not have sold nearly half the stock  
25 they owned in the company just days before the award was to be announced.  
26 Defendants made these trades because they were in possession of the material, non-  
27 public information that the prototype submitted by Workhorse had suffered

1 numerous critical failures in testing, and therefore it was unlikely Workhorse would  
2 secure the award. Their continued insistence to the contrary was a fraudulent scheme  
3 to inflate the stock price, earning them millions of dollars in personal profit.

4 118. On February 23, 2021, USPS announced via press release that it was  
5 rewarding the entirety of the 10-year, multi-billion dollar NGDV contract to  
6 established contractor Oshkosh Defense, who had partnered with Ford Motors. The  
7 USPS press release stated that “[t]he vehicles will be equipped with either fuel-  
8 efficient internal combustion engines or battery electric powertrains and can be  
9 retrofitted to keep pace with advances in electric vehicle technologies.” The press  
10 release did not mention Workhorse at all.

11 119. On this news, the price of Workhorse stock plummeted, from opening  
12 at \$28.29 per share on February 23, 2021 all the way down to an intra-day low of  
13 \$12.50 per share, closing around \$16.43 per share.

14 120. Rather than accepting the USPS decision, Defendants opted to continue  
15 their fraudulent scheme. The next day, February 24, 2021, Workhorse published a  
16 press release which stated, “The Company intends to explore all avenues that are  
17 available to non-awarded finalists in a government bidding process.” On March 3,  
18 2021, Workhorse met with representatives of the USPS, purportedly to request  
19 further information about why that Workhorse’s proposal was rejected. In the  
20 meeting, Workhorse representatives were told that their prototype was rated less  
21 favorably than Oshkosh’s vehicle on the Technical Evaluation Factors. However,  
22 rather than revealing this simple and understandable explanation to investors,  
23 Defendants continued to use the NDA as a convenient vehicle for flouting securities  
24 laws, repeatedly stating they could not reveal what happened in the March 3 meeting  
25 but: “[w]e are continuing to evaluate our options and intend to continue to explore  
26 all avenues that are available to us.”  
27

1        121.        On June 16, 2021, Workhorse filed a complaint with the United States  
2 Federal Court of Claims protesting the award of the NGDV contract to Oshkosh.  
3 The complaint confirmed that USPS had decided early in the NGDV Program that  
4 Workhorse would not be the awardee based on a variety of factors, including: 1) The  
5 prototype submitted by Workhorse suffered numerous critical issues during testing,  
6 including an incident where the parking break on the prototype failed, sending the  
7 USPS test driver to the hospital; 2) USPS was concerned that Workhorse was “a  
8 ‘startup’ company without the experience or capability to produce the NGDV”; 3)  
9 USPS had identified numerous “critical” deficiencies in Workhorse’s proposal,  
10 including missing information about the warranty on various parts and an  
11 “unacceptable” service plan; and 4) After testing, Workhorse’s proposal ranked dead  
12 last in both its Technical Ranking and its Best Value Ranking, while Oshkosh’s  
13 vehicle was ranked first in both the technical evaluation and total cost of ownership  
14 evaluation, making Workhorse the clear and logical loser and Oshkosh the winner  
15 of the bid.

16        122.        Additionally, Workhorse admits to being told by USPS in September,  
17 2020 that its proposal had numerous deficiencies, many of which (including the  
18 “roll-away incident,” the fact that the Company has never mass produced trucks, and  
19 the fact that it did not (and does not) have the capacity to do so) were self-evident.  
20 Defendants knew or should have known that, given the priority USPS placed on  
21 safety, design and manufacturing capabilities, these deficiencies would have  
22 disqualified Workhorse from winning the bid.

23        123.        Thus, Defendants used the USPS NGDV contract as a fraudulent  
24 vehicle for driving up the price of Workhorse stock, which was further propelled by  
25 their representations as to why the Company was a frontrunner for the USPS NGDV  
26 contract, but shielded by the NDA from disclosing material information from  
27 shareholders that would preclude the Company from winning the contract. This

1 course of conduct allowed Defendants Hughes, Willison, Ackerman, and members  
2 of the Workhorse board of directors to make tens of millions of dollars of personal  
3 profit through suspiciously timed stock sales while the stock was artificially inflated,  
4 at the expense of Plaintiffs, and those similarly situated, who suffered losses and  
5 were damaged thereby.

6 **B. Production Targets**

7 124. In furtherance of this scheme, throughout the Class Period, Defendants  
8 fraudulently created the impression to investors that Workhorse was capable of mass  
9 production – and therefore a viable competitor for the USPS contract – by setting  
10 production targets far beyond Workhorse’s capability, and repeatedly insisting that  
11 Workhorse could meet the target. When it became apparent that Workhorse could  
12 not meet the target for 2020, rather than admit the Company was not yet at a stage  
13 where mass production was possible, Defendants blamed the failure on the COVID-  
14 19 pandemic. Defendants then set a new, equally impossible production target for  
15 2021. Eventually, nearly halfway through the year, Defendants revealed that  
16 Workhorse had only accomplished approximately 2% of the target. At this point, the  
17 public finally caught on to Defendants’ scheme, and the stock price declined.

18 125. Defendants first set a production target of 300-400 trucks in a press  
19 release on March 10, 2020. Hughes reiterated this number during an earnings call on  
20 the same day, stating, “Our intent is to produce and deliver a limited number of  
21 vehicles to our customers in the second quarter and then move to higher volumes  
22 and deliveries with a target of delivering roughly 300 to 400 delivery trucks in 2020.”  
23 Schrader further elaborated on this statement, saying “[Y]ou have to kind of ramp it  
24 up slowly; so I think you expect the -- the first quarter and the second quarter will  
25 be a lot smaller quantities and will be back loaded towards the fourth quarter in the  
26 300 to 400.”



1       126.       In every earnings call and media interview over the next seven months,  
2 Defendants affirmed the 300-400 vehicle target. For example:

- 3       •       On an earnings call on May 6, 2020, noting challenges imposed by the  
4 COVID-19 pandemic, an analyst stated: “I was impressed that you  
5 maintained your guide of 300 to 400 units this. Other EV truck  
6 companies are saying that, customers don’t have the right number of  
7 people in the office... You guys are very straightforward, 300 to 400  
8 was your original guidance, you're reiterating.” Hughes replied: “*we*  
9 *can reiterate our guidance and we can meet what we're saying we're*  
10 *going to do.*”
- 11       •       In an interview with Benzinga on July 24, 2020, Schrader stated: “We  
12 are actually making, um, actually making trucks right now at our  
13 Union City, Indiana plant, um, and, uh, and we plan to make 300-400  
14 this year.”
- 15       •       A press release published by Workhorse on August 10, 2020 states that  
16 the Company “Reaffirmed previous production and delivery target of  
17 300-400 vehicles in 2020.”
- 18       •       In an earnings call on August 10, 2020, Schrader stated “the vast  
19 majority of our 300 to 400 vehicle production target would be  
20 manufactured and delivered by the end of the fourth quarter of this  
21 year” and Hughes stated that the Company was developing an assembly  
22 plan in order to “deliver our target vehicle production of 300 to 400  
23 units later, with a vast majority coming in the fourth quarter.”
- 24       •       In an August 14, 2020 interview with Jack Spencer, Schrader stated:  
25 “We’ve got a prototype started on that, so it’s not only just engineering  
26 and production right now, *how to get to kind of our three to four*  
27

1            *hundred this year, uh, in the fourth quarter*, but also thinking about  
2            what we’re going to do next.”

- 3            • On October 15, 2020, in an interview on TD Ameritrade Live, Schrader  
4            stated: “Right now we’ve delivered, you know, a handful of vehicles  
5            out there but *we have a plan to build and manufacture and deliver*  
6            *300-400 this year*, and most of those will come in this quarter right  
7            now, and then continue that to maybe 200 a month or so next year.”
- 8            • In an October 29, 2020 interview with Benzinga, Schrader stated:  
9            “we’ve got everything in place right now, so we’ve got the labor and  
10            materials coming in, and from our standpoint *we’ve still have the 300-*  
11            *400 that we have out there, and that’s our goal.*”

12            127.        These statements regarding the 2020 production target were part of a  
13            fraudulent scheme to raise the stock price by representing Workhorse as an  
14            established company, capable of mass production. However, in truth, as Fuzzy  
15            Panda reported and the Confidential Witnesses in this case confirmed, Workhorse  
16            was incapable of meeting these production targets based on their facilities and  
17            personnel. Workers assembled vehicles one at a time on wooden workbenches using  
18            basic hand tools that could be purchased at any hardware store. When asked if there  
19            was a timeline for hiring the workers necessary to increase production, CW2 said,  
20            “Hell no,” and even if there had been, the Company had “no cash flow” by which to  
21            go forward with such hiring. This facility was only capable of producing a handful  
22            of trucks per quarter – nowhere near the 100 trucks/quarter promised by defendants.

23            128.        Analysts covering Workhorse seized on the 300-400 truck production  
24            target, citing the target as a factor in their valuations. For example:

- 25            • In a March 10, 2020 note, an analyst from BTIG stated: “Management  
26            provided a *2020 vehicle production guidance target of 300-400 units*  
27            with initial customer deliveries expected to commence in April... the

1 company has now transitioned to the C-Series line and is geared  
2 (production line and staffed) up for initial production.”

- 3 • In a March 10, 2020 note, an analyst from Cowen Equity Research  
4 stated: “Workhorse *looks to deliver between 300 and 400 C-Series*  
5 *vehicles in 2020*... We now expect production to ramp up to ~300 in  
6 1Q21, which should drive gross margin to positive levels... Given that  
7 outlook we see the potential for profitability in late 2H21.”
- 8 • On May 6, 2020, an analyst from Cowen Equity Research stated:  
9 “Workhorse has thus far successfully managed through the COVID-19  
10 pandemic... Production has resumed in April and the company has  
11 staffing to produce 2 trucks per day and *continues to target 300-400*  
12 *for the year.*”
- 13 • In a May 7, 2020 note, an analyst from Roth Capital Partners wrote:  
14 “Workhorse is making strong progress towards production of its C-650  
15 and C-1000 all electric trucks... Mgmt maintained guidance for 300-  
16 400 units delivered in 2020, based on a healthy backlog and customers  
17 waiting for vehicle delivery.”
- 18 • On May 28, 2020, an analyst from Dougherty and Company wrote that,  
19 based on discussions with Workhorse management, it was projecting  
20 340 vehicles would be produced in 2020, “in-line with the company's  
21 outlook for 300-400 vehicles.”
- 22 • In a note published on June 3, 2020, an analyst from Roth Capital  
23 Partners stated: “We hosted Workhorse CEO Duane Hughes and CFO  
24 Steve Schrader for a day of virtual investor meetings that reaffirmed  
25 our bullish investment thesis. We continue to expect a start to C-1000  
26 electric truck production by the end of 2Q20 with a significant ramp in  
27 volumes into the end of the year.”

- 1 • On June 25, 2020, an analyst from Colliers International wrote:  
2 “Yesterday, we hosted investor calls with the management of WKHS,  
3 including CEO Duane Hughes and CFO Steve Schrader... ***The outlook***  
4 ***for 300-400 units this year was reiterated multiple times.***”
- 5 • The same day, June 25, 2020, an analyst from Roth Capital Partners  
6 stated: “We met with WKHS CFO Steve Schrader and COO Robert  
7 Wilson for investor meetings at the ROTH Virtual London Conference  
8 and came away excited about the long-term growth potential. Initial  
9 deliveries of the updated C-1000 truck are on track for 2Q20, with ***good***  
10 ***visibility on a steep ramp into year-end.***”
- 11 • On August 10, 2020, the day of the Q220 earnings call, an analyst from  
12 BTIG gave Workhorse stock a target price of \$26/share, stating:  
13 “WKHS ***reaffirmed its 300-400 unit production target for 2020***  
14 ***(management expects to get to a 100 unit/month run-rate in 4Q20).***”
- 15 • On the same day, an analyst from Colliers International wrote: “***The***  
16 ***outlook for the shipment of 300-400 units in 2020 was maintained...***  
17 the significant ramp-up expectations for the second half were  
18 unchanged.”
- 19 • Cowen Equity Research published a note on this same day, stating:  
20 “The 2H ramp remains on track and management ***continues to target***  
21 ***300-400 vehicles by the end of the year.*** After a tough few quarters, we  
22 see greener pastures ahead.”
- 23 • The next day, August 11, 2020, an analyst from Roth Capital Partners  
24 stated: “Workhorse's 2Q20 update affirmed the company is on a path  
25 for ramping production in 2H20, and mgmt reiterated it expects to  
26 produce 100 trucks per month before the end of the year. ***The 2020***  
27 ***deliveries guide remains 300-400 units.***”

- 1 • On September 11, 2020, Colliers International published a note which  
2 stated: “The management team of WKHS participated in the Colliers  
3 2020 Investor Conference on 9/10... *There was no change to the*  
4 *outlook for delivering 300-400 units this year.*”
- 5 • On October 13, 2020, an analyst from Colliers International wrote:  
6 “*WKHS plans to produce 300 vehicles in Q4*, and substantially more  
7 after that.”
- 8 • And on November 4, 2020, an analyst from Colliers International wrote  
9 a report in anticipation of Workhorse’s Q320 guidance, noting that  
10 “Investors will be eager to hear WKHS’ progress on ramping-up  
11 production during Q4, to meet its 300-400 unit guidance for the year.”

12 129. When, on November 9, 2020, Workhorse released its Third Quarter  
13 Fiscal 2020 (“3Q:20”) financial guidance, Defendants were forced to finally admit  
14 Workhorse could not produce 300-400 trucks by the end of 2020, Defendants  
15 blamed a convenient scapegoat – the COVID-19 pandemic – in order to maintain  
16 the fraudulent scheme.

17 130. Defendants revealed that, at one point in early October, 36% of its  
18 employees were unable to work due to contracting or exposure to the virus.  
19 Additionally, Defendants explained Workhorse’s battery supplier also had  
20 pandemic-related struggles and was not able to produce sufficient batteries to meet  
21 the order. Yet, even if there had not been a pandemic, Workhorse would not have  
22 been able to produce 300-400 trucks in its unautomated and understaffed Union City  
23 facility.

24 131. Additionally, Defendants state that they became aware of both the  
25 battery supply issues and work force issues by early October. Defendant Schrader  
26 conducted two interviews in mid-late October, one with TD Ameritrade on October  
27 15, 2020 and one with Benzinga on October 29, 2020, in which he continued to

1 fraudulently represent Workhorse expected to meet its production target for the year.  
2 By Defendants' own admissions, Schrader knew, at the time he conducted these  
3 interviews, that Workhorse would not be able to meet the target.

4 132. Moreover, in the earnings call on November 9, 2020, Defendants  
5 doubled down on their scheme, setting a new production target of 1,800 trucks in  
6 2021. Hughes stated: "we would anticipate producing 1,800 units in 2021" and  
7 Schrader elaborated: "I think you could look at it as getting to 100 trucks per month  
8 by the - no little later than the first quarter of 2021 and then getting to 200 trucks a  
9 month by no later than the second quarter of 2021." However, Defendants did not  
10 disclose any plans to spend any further capital on automating the Union City facility.  
11 A few days later, on November 14, 2020, Schrader revealed to Jack Spencer  
12 Workhorse's production plan: "you start one a day then two a day and hopefully  
13 we'd ramp up to eight a day or so toward the end."

14 133. Defendants reiterated the 1,800 truck target multiple times, for  
15 example:

- 16 • On November 14, 2020, in an interview with Jack Spencer, Schrader  
17 stated that, if the backlog were to increase, Workhorse may be able to  
18 produce even more than 1800 trucks in 2021 – "certainly we'll look at  
19 ways to speed it up."
- 20 • On January 27, 2021, in an interview with Simranpal Singh, Schrader  
21 stated: "we're at the stage right now, just actually producing in mass,  
22 which is the hardest thing to do for any manufacturer, you know, to go  
23 from zero to producing five or ten or fifteen a day eventually. So that's  
24 kind of where we're at.... this year's milestone is five a day, you know,  
25 maybe by March, by the end of March, then 10 a day by the end of  
26 June."

- 1 • On January 28, 2021, in another interview with Jack Spencer, Schrader  
2 stated: “our goal, our milestone still is to try to have, you know, try to  
3 get to 5 a day sometime in March, by the end of the first quarter, okay?  
4 Um, and then ten a day sometime by the end of the second quarter. You  
5 know, so those are our milestones, and hopefully we hit those, um, but  
6 that’s again if we hit those then we should be on target for our 1,800 for  
7 this year.”

8 134. By March 1, 2021, Hughes, knowing that the public would not be  
9 fooled for much longer, used slightly more cautionary language when describing the  
10 1,800 unit target. He stated:

11 While we believe this is a feasible goal, it’s a stretch. Given our  
12 backlog, we cannot sacrifice future build volume for current year  
13 production, and scaling up manufacturing properly has to take  
14 precedence.

15 However, Schrader did not back down from his assertions that Workhorse was ready  
16 and able to scale up their production capabilities. He stated:

17 [W]e’re trying to get to a target of three a day, sometime here at this  
18 month. And then also, we kind of will continue to keep out our 10 a day  
19 by the end of sometime in June or by the end of the second quarter. So,  
20 that’s kind of our goal.

21 135. On May 10, 2021, the truth about was revealed when they announced  
22 that Workhorse had only delivered 6 trucks in the first quarter 2021 and had only  
23 produced 38 trucks so far that year – approximately 2% of the 1,800 truck target. On  
24 this news, the price of Workhorse stock dropped to a low of \$8.20/share. As  
25 Defendants’ fraudulent scheme was gradually exposed, Plaintiffs, and those  
26 similarly situated, suffered economic losses.



1           **C. The Purported “Backlog”**

2           136. Defendants also used Workhorse’s purported “backlog” of orders as an  
3           artifice to support their fraudulent scheme that Workhorse was a legitimate  
4           contender for the USPS contract and capable of delivering large scale production of  
5           vehicles. For example, Defendants represented that they had a stable backlog of  
6           over 1,100 trucks, consisting mainly of a 1,000+ truck order from package delivery  
7           company UPS. The purported backlog grew to over 8,000 trucks by the end of the  
8           Class Period. In truth, the orders that made up Workhorse’s backlog were highly  
9           conditional, cancellable, and, in some cases, were dependent on non-existent  
10          customer demand. Defendants’ assertions about Workhorse’s backlog were part of  
11          a scheme to make the Company appear to be stable and established, thereby  
12          fraudulently inflating the price of Workhorse stock, allowing the Individual  
13          Defendants to make tens of millions of dollars in personal profit.

14          137. On May 30, 2018, Workhorse announced via 8-K that it had entered  
15          into an agreement with UPS for 1,000 all-electric package delivery vehicles. The  
16          UPS Agreement, provided for delivery of the vehicles in two phases. In phase 1,  
17          Workhorse would provide UPS with 50 proto-type vehicles as a test fleet, which  
18          would be tested across multiple geographic regions for durability. In phase 2, UPS  
19          would take delivery of the remaining 950 vehicles.

20          138. The UPS Agreement stated:

21                 (d) Phase 2 “will be *on a timeframe decided by Buyer at Buyer’s*  
22                 *sole discretion.*”

23                 (e) “Buyer will determine, at its sole discretion, the level of success  
24                 of the 50 Vehicle test.”

25                 (f) “Buyer may reduce the quantity of the balance of the Order (*or*  
26                 *cancel the balance of the Order*) depending on the level of  
27

1 success achieved during the phase 1 testing, as determined in  
2 Buyer's sole discretion."

3 139. Defendant Hughes, who was COO of the Company at the time, signed  
4 the UPS Agreement on behalf of Workhorse, so was intimately familiar with the  
5 details of the deal.

6 140. In their 2020 10-K, Workhorse stated: "To date, we have received six  
7 separate orders totaling up to 1,405 vehicles from UPS. The sixth and most recent  
8 order is from the first quarter of 2018."

9 141. To date UPS has not requested delivery of the 950 non-prototype  
10 vehicles in the contract. In fact, in its 2019 Sustainability Report, UPS announced it  
11 had placed an order for 10,000 EVs from "U.K.-based startup Arrival." Workhorse  
12 was not mentioned in the sustainability report at all.

13 142. Despite the lack of assurance that UPS would ever take delivery of  
14 these vehicles, and UPS' commitment to Arrival, Defendants used the UPS order to  
15 inflate Workhorse's purported backlog. During the Class Period, Defendants  
16 repeatedly represented to investors that UPS was their premier customer, and that  
17 the UPS order was on the precipice of being fulfilled, for example:

- 18 • March 10, 2020 earnings call, Hughes states: "so as you know, UPS being our  
19 customer of record for the last several years, they have 1,060 units on order  
20 that *we are beginning to deliver in anticipation in late Q2 or Q3 this year...*  
21 UPS is clearly still, an all important customer to us because they have the  
22 highest volume currently, and we expect that they will continue to be excited  
23 by the trucks that we're delivering."
- 24 • May 6, 2020 earnings call, Schrader states: "we have the backlog out there in  
25 the first place with UPS... we're seeing customers very positive about our  
26 trucks and it's more, how soon can we get them."

- 1 • July 24, 2020 Schrader interview on Benzinga: “we also have a backorder of  
2 1100, uh, vehicles so we’ve already got sales out there from UPS and DHL.”
- 3 • August 10, 2020 earnings call, in response to a question about the UPS order,  
4 Hughes states: “We are continuing to make sure that the trucks that we do  
5 deliver to UPS knock it out of the park if you will. So rather than having the  
6 first few vehicles go to them, *we’re working with their implementation*  
7 *schedule across the different depots where they’re going to place these*  
8 *vehicles* starting in the California marketplace as we understand it today.”
- 9 • August 17, 2020 Willison interview on the Supply Chain Innovation podcast:  
10 “Because of our progress in the EV field, because of our associations with  
11 UPS and things, we’re finally, not only getting the volume of funding, but at  
12 rates that are sustainable.”
- 13 • November 9, 2020 earnings call, Hughes states: “UPS remains our premier  
14 customer, if you will, because they have been along with us for the longest  
15 time, they collaborated with us on this C-Series design... So *we feel strong.*  
16 *We are happy where we are with UPS. We will be delivering new vehicles.*  
17 And the real key for them is us deliver us a high-quality vehicle over and over  
18 again, right?... So the first vehicle we deliver them, we want to hit it out of the  
19 park, and we want to make sure it is right.”
- 20 • March 1, 2021 earnings call, Hughes states: “UPS, it’s a combination,  
21 obviously, we haven’t got production now, but also is when and where UPS  
22 would love to take their vehicles first. They have a depot in California and  
23 San Diego that’s already with infrastructure. They love to get the voucher  
24 program too. So *ideally, I think their first trucks would ideally go to*  
25 *California.*”

1 143. Including the UPS order in its purported backlog allowed the small  
2 startup, which had only previously produced a handful of trucks, to appear legitimate  
3 and stable. This fraudulent scheme deceived many sophisticated financial analysts:

- 4 • In each of its reports dated March 10, 2020, May 6, 2020, August 10, 2020,  
5 November 9, 2020, February 23, 2021, and March 1, 2021, Cowen Equity  
6 Research stated that its base case assumption when creating a valuation model  
7 for Workhorse was “***UPS contract generates stable revenue.***”
- 8 • On May 28, 2020, an analyst from Dougherty & Company stated: “Certain  
9 large, national customers such as UPS engage directly with WKHS for larger  
10 orders; these large fleets typically have their own set of depots and staff for  
11 service functions... ***Our discussions with WKHS’s management suggest that  
12 the company has approximately 1,200 vehicle orders in its backlog; most  
13 are for the C1000 model and are intended for delivery to UPS.***”
- 14 • On June 3, 2020, an analyst from Roth Capital Partners stated: “Major  
15 customers including UPS, DHL, and Ryder are likely to take trucks this year,  
16 which should support improving order book visibility.”
- 17 • On July 13, 2020, Roth Capital Partners raised its target price for Workhorse  
18 stock from \$12 to \$27, stating: “Workhorse... had a backlog of 1,200 units  
19 (incl. 1,060 with UPS) at the end of 1Q20.”
- 20 • On August 10, 2020 an analyst from BTIG stated: “We expect UPS deliveries  
21 to start later this year.”
- 22 • On November 9, 2020, an analyst from Cowen Equity Research, reporting on  
23 a recent earnings call, stated: “Management highlighted that the backlog  
24 stands at ~1,700 vehicles which ***includes the ~1,000 unit order backlog with  
25 UPS.***” The report later stated, “The majority of the company's revenue is  
26 currently generated through a contract with UPS,” which was not true at all,  
27

1 as none of the reported revenue during the Class Period appears to have been  
2 generated by the UPS contract.

- 3 • On December 9, 2020, an analyst from Wolfe Research stated “We believe  
4 Workhorse can become a winner in the electric last mile delivery vehicle  
5 space regardless of the Postal Service award outcome... they received a 1,000-  
6 vehicle anchor order from UPS.”
- 7 • On December 10, 2020, an analyst from Cowen Equity Research stated:  
8 “**Management remained upbeat** on the company's 1800 delivery target for  
9 FY21 and highlighted its 1700 vehicle backlog, which is primarily composed  
10 of a 500 vehicle order from Pritchard and a ~1000 vehicle order from UPS.  
11 **Workhorse anticipates UPS deliveries could begin in earnest exiting 1Q21**  
12 as it works to incorporate feedback on previously delivered vehicles and **the**  
13 **relationship with UPS seems positive.**”
- 14 • On December 14, 2020, an analyst from BTIG wrote: “Last week we hosted  
15 investor meetings with WKHS management... . . . UPS at ~50% of backlog is  
16 a key customer... **We expect UPS to start taking trucks in 1H21.**”
- 17 • On March 1, 2021, after USPS announced it would not be awarding the  
18 NGDV contract to Workhorse, an analyst from Cowen Equity Research  
19 wrote: “We remain constructive on shares given the visibility for C-Series  
20 deliveries to UPS.”
- 21 • On March 19, 2021, an analyst from Roth Capital Partners stated: “WKHS  
22 has ~1,100 in outstanding orders with UPS, and **mgmt disclosed HVIP**  
23 **funding for UPS will likely be available in April**, an important catalyst to  
24 start delivering vehicles into CA.”

25 144. If management had not concealed the true, adverse facts regarding the  
26 status of the purported UPS backlog, and UPS’s lack of commitment to Workhorse,  
27 these analysts would not have adjusted their expectations regarding those purported

1 orders and would have adjusted their target share prices accordingly. However,  
2 instead, Defendants used the UPS Agreement to continue perpetrating their  
3 fraudulent scheme.

4 145. The backlog scheme did not stop with UPS, however. Workhorse  
5 entered into several other conditional agreements throughout the Class Period, each  
6 of which Defendants claimed would certainly be fulfilled.

7 146. On July 23, 2020, Workhorse published a press release (not filed on  
8 SEC Form 8-K, despite the materiality of the news) that it had secured an order of  
9 20 trucks from a new electronic vehicle start-up, eTrucks. eTrucks did not exist prior  
10 to June, 2020, and appears to have been created by an associate of Defendant  
11 Willison for the sole purpose of placing an order of Workhorse trucks to increase the  
12 backlog. To date, eTrucks has not taken delivery of or paid for the 20 trucks  
13 mentioned in the July 23, 2020 press release.

14 147. On November 9, 2020, Defendants announced via a press release (not  
15 filed on SEC Form 8-K, despite the materiality of the announcement) that it had  
16 received a new purchase order of 500 trucks from Pritchard Companies. In the press  
17 release, Hughes is quoted as saying: “With this significant order and agreement from  
18 Pritchard, we can build upon our nationwide distribution network and expand the  
19 number of potential fleet customers that will be able to operate and own a Workhorse  
20 delivery truck.” The press release did not indicate when or where Pritchard would  
21 take delivery of or pay for the trucks.

22 148. In an earnings call on the same day, an analyst stated:

23 I’m a little confused about what Pritchard’s role in all is. Are these  
24 orders spoken for with end users? Or are they just really an inventory  
25 stock up for Pritchard?

26 To which Hughes replied:  
27

1 So they will find their own end-user customers as they always do. I  
2 mean they already have a group. They sell many trucks to FedEx  
3 ground contractors as well as beyond that. So that 500 number is a  
4 pretty small number in their mind in terms of number of units to sell.

5 149. To this day, it is unclear how many of the 500 vehicles have already  
6 been sold to end customers, how many Pritchard intends to take delivery of in 2021,  
7 or whether Pritchard has experienced any user demand at all for the Workhorse  
8 trucks. When asked about this in the May 10, 2021 earnings call, Schrader simply  
9 stated, “So I don’t think they want us to announce exactly kind of what they are  
10 doing with their customers and how they are approaching or how they are going to  
11 deliver them.”

12 150. Defendants’ announcement of the 500 truck order as if it was certain  
13 Pritchard would take delivery of the 500 trucks and inclusion of the potential 500  
14 truck order in their purported backlog made the company appear to be growing and  
15 stable. Many analysts found this news encouraging, especially as it was announced  
16 on the same day Workhorse announced it would not be meeting its 300-400 truck  
17 target for 2020. For example:

- 18 • In an 11/9/2020 note, BTIG called the order from Pritchard a “Needle Mover,”  
19 stating “the company’s announcement of a 500 vehicle order (~40% increase  
20 to backlog) this morning looks to be driving the stock higher”;
- 21 • In an 11/9/2020 note, Cowen Equity Research stated: “We are encouraged by  
22 Workhorse’s new 500-unit truck order announced this morning with  
23 Pritchard”;
- 24 • In an 11/9/2020 note, Oppenheimer stated: “We are encouraged by the  
25 Pritchard vehicle announcement and augmentation of the balance sheet as we  
26 wait for further detail on the USPS order”; and  
27



- In an 11/11/2020 note, Colliers International stated: “There was much to like in management's commentary, including a new 500-unit order with a commercial vehicle distributor, progress on the Hitachi manufacturing improvements, and a strong production outlook for 2021.”

151. The additional “backlog” created by the Pritchard orders further contributed to Defendants’ scheme to create the impression of a growing, capable vehicle manufacturer.

152. On January 4, 2021, Workhorse published a press release (not filed with the SEC on Form 8-K, despite the materiality of the announcement) announcing that it had “received a purchase order for 6,320 C-Series all-electric delivery vehicles from Pride Group Enterprises.” The press release warned that the order was subject to various production and delivery conditions, but also contained an upbeat statement from Hughes: “Our new agreement with Pride marks our largest individual order to-date and expands our sales channel internationally into Canada for the first time... This large order solidifies our first-mover advantage and indicates the heightened interest in our last mile delivery products.”

153. The Pride Group did not create its own press release regarding the acquisition of the trucks, nor did it post Workhorse’s press release on its website. In fact, Workhorse is not mentioned anywhere on Pride’s website. Pride’s sales website, PrideTruckSales.com, only shows heavy trucks and transport trailers, and there is no information about how one could acquire a Workhorse last-mile delivery truck. These facts indicate that, similar to the UPS contract, there is no assurance Pride will take delivery of the full order of 6,000+ trucks.

154. Some analysts met this announcement with skepticism. For example, a reporter from automotive news site Freightwaves.com reached out to Workhorse management requesting information about the “conditions” mentioned in the press

1 release but was never contacted back. In a report published on January 4, 2021, an  
2 analyst from Colliers noted:

3 Incremental interest in WKHS' products is a positive, in our view, but  
4 we would caution investors not to count all 6,320 units as binding just  
5 yet, as Pride will have to ultimately find end-users for the vehicles.  
6 Pride Group is not currently a final-mile delivery-truck dealer and while  
7 there may be some overlap with some long-haul customers, a new set  
8 of relationships must be developed.

9 Similarly, in a January 4, 2021 report published by Roth Capital Management, an  
10 analyst expressed hesitation about whether Pride would actually take delivery of the  
11 trucks, noting: "Workhorse PO with Pride Group seems like it could more closely  
12 resemble a sales and distribution agreement."

13 155. However, other analysts viewed the purchase order from Pride as a  
14 positive catalyst. For example, in a note dated January 5, 2021, Wolfe Research  
15 stated:

16 Outside of the obvious positive from significant backlog growth, this  
17 announcement demonstrates that Workhorse's partnership with Hitachi  
18 (Hitachi is advising WKHS on the expansion of their factory and  
19 helping WKHS build a dealership network) is starting to bear fruit.

20 Similarly, on January 4, 2021, BTIG published a report stating:

21 [T]his morning before the market open, WKHS announced it had  
22 received an order for 6,320 orders for its C-Series truck (order is split  
23 between the C-650 and C-1000) which boosts the company's backlog  
24 by almost 400%. WKHS opened up 3%-4% this morning.

25 156. The price of Workhorse's stock rose sharply the week of this  
26 announcement. The stock price closed at \$19.78/share on December 31, 2020 (the  
27 last trading day before the announcement of the Pride order) to an intra-day high of

1 \$27.99 on January 8, 2021. The Individual Defendants and members of Workhorse’s  
2 Board of Directors took advantage of this raise and sold hundreds of thousands of  
3 shares of Workhorse stock. Hughes sold a total of 143,515 shares between January  
4 4, 2021 and January 8, 2021 for total proceeds of approximately \$3.4 million.  
5 Schrader sold 4,437 shares of Workhorse stock for proceeds of approximately  
6 \$85,000. Willison sold 6,103 shares of Workhorse stock on January 8, 2021 for  
7 proceeds of approximately \$117,000. Ackerson sold over 10,000 shares of  
8 Workhorse stock for proceeds of approximately 229,000. Additionally, board  
9 member H. Benjamin Samuels and his related entities sold approximately 200,000  
10 shares of Workhorse stock for \$4,673,000 and board member Raymond Chess sold  
11 10,000 shares for \$247,700.

12 157. Defendants used the USPS contract, production targets, and the  
13 Company’s “backlog” of fictitious purchase orders, together in a scheme to mislead  
14 the market regarding Workhorse’s business and manufacturing capabilities and  
15 facilitate insider trading at artificially inflated prices at the expense of Class Period  
16 purchasers of Workhorse stock.

17 158. In furtherance of this scheme, Defendants used appearances in  
18 YouTube video interviews with extremely enthusiastic Workhorse supporters in a  
19 grassroots campaign to encourage the dissemination of misinformation related to the  
20 USPS NGDV Contract among the individual investor community. Fuzzy Panda  
21 reported on the backgrounds of some of these “YouTube Investors” (most of whom  
22 had no experience with investments), and uncovered striking parallels to the  
23 promotion of Lordstown and former Workhorse CEO Steve Burns, who has since  
24 resigned from Lordstown amid investigations of securities fraud and similar  
25 overstated claims about truck orders. In fact, Fuzzy Panda revealed that Workhorse  
26 had a history of partnering with companies such as CSIR Group, who was charged  
27 with fraud by the SEC in a “fraudulent stock promotion scheme” “hir[ing]

1 writers...to publish dozens of bullish articles on its clients, which appeared to be  
2 independent research pieces,” for “investor relations” services.

3 159. With this backdrop, it comes as no surprise that, after not selling shares  
4 for months following the USPS NGDV Contract grant to Oshkosh, Defendants  
5 Ackerson, Willison, Hughes and Schrader all suddenly sold shares on July 1, 2021,  
6 just days after the Reddit community targeted Workhorse and surged the Company’s  
7 stock price.

8 **DEFENDANTS’ MATERIALLY FALSE AND**  
9 **MISLEADING STATEMENTS AND OMISSIONS**

10 **A. March 10, 2020**

11 160. On March 10, 2020, the first day of the Class Period, Workhorse issued  
12 a Press Release filed on Form 8-K announcing its fourth quarter (“4Q:19) and full  
13 year 2019 financial results. The Press Release states, for the first time publicly, that  
14 Workhorse had “[e]stablished a production and delivery target of 300-400 vehicles  
15 in 2020.” In the Press Release, Defendant Hughes is quoted as saying:

16 We also made *meaningful progress* in our transition from a  
17 development-stage company *to a production-focused enterprise...*  
18 While our intent had been to deliver initial vehicles in the first quarter  
19 of 2020, we were impeded by material supply disruptions related to the  
20 global outbreak of the novel coronavirus. Despite these near-term  
21 headwinds, *we are setting a 2020 production target of 300-400*  
22 *vehicles* and are looking forward to delivering our state-of-the-art truck  
23 to our customers.

24 161. The foregoing statements were materially false and misleading when  
25 made, because Workhorse was still very much a “development-stage company,” and  
26 had made no “meaningful progress” into a “production-focused enterprise,” as it had  
27 no automation, no assembly lines, and only 12 employees who assembled trucks one  
28

1 at a time by hand. While Defendants blamed the coronavirus-related supply  
2 disruptions as preemptory excuses as to why the Company would fail to deliver  
3 vehicles in the upcoming quarter, in truth, and as supported by CWs and inside  
4 sources credited in the Fuzzy Panda report, Workhorse did not have sufficient  
5 personnel or the manufacturing facilities to manufacture vehicles at any scale at this  
6 time, notwithstanding the coronavirus.

7 162. On the same day, Workhorse held a call with investors, in which  
8 Hughes, Schrader, and Willison each participated. In the call, Hughes stated:

9 As of today... we have the internal capacity to produce two C Series  
10 trucks per day at our Union City assembly complex. As training  
11 continues and substation assembly processes are completed, we can  
12 quickly move to five trucks per day with the ability to scale to as many  
13 as 10 trucks per day before we consider additional automation  
14 upgrades.

15 ...

16 Our intent is to produce and deliver a limited number of vehicles to  
17 our customers in the second quarter and then move to higher volumes  
18 and deliveries with a target of delivering roughly 300 to 400 delivery  
19 trucks in 2020.

20 Schrader elaborated on Hughes' statements:

21 [Y]ou have to kind of ramp it up slowly; so I think you expect the -- the  
22 first quarter and the second quarter will be a lot smaller quantities and  
23 will be back loaded towards the fourth quarter in the 300 to 400. And  
24 then, thinking about steady state; I think what we see from a standpoint  
25 to and -- is we have basically -- we think 200 a month, it will be kind  
26 of steady state production, that kind of gets us to gross margins that you  
27 would expect an OEM to have and also profitable state.

1 163. The foregoing statements attributable to Defendants Hughes and  
2 Schrader were materially false and misleading when made because Workhorse did  
3 not have the capability to manufacture the vehicles in the quantities they described.  
4 At this time, Workhorse could not manufacture two vehicles a day, much less five  
5 or ten as Defendant Hughes stated. Accordingly, because Defendants did not expect  
6 to – and indeed, did not – deliver many vehicles in the second quarter of 2020,  
7 meeting the production target of 300 to 400 vehicles for 2020 based primarily on the  
8 production in the second half of 2020, as Defendant Schrader stated, was impossible.  
9 Moreover, Even if Workhorse had been able to produce 300-400 trucks in 2020, as  
10 of March 2020, there were no customers to take delivery of the trucks. As discussed  
11 herein, UPS’s contract did not bind UPS to take delivery of any trucks beyond the  
12 50 prototypes, and still has chosen to take delivery of the remaining conditional  
13 trucks of the order.

14 164. In answer to a question from an analyst, asking “what the CapEx needs  
15 are of the company to move from 2 to 5 to 10 per week? It sounds like there is some  
16 costs involved, so I didn’t know what the CapEx budget was for the guidance that  
17 you just provided?” Willison responded that “it’s only above 10 that we actually  
18 would need CapEx. So I think from that standpoint, we don’t need to really any [sic]  
19 additional CapEx this year, regarding that the [sic] assembly plant.”

20 165. Defendant Willison’s statement was materially false and misleading to  
21 insofar as it indicated that Workhorse did not need to add any automation to the  
22 Union City facility until workers were producing over ten trucks per day, as any type  
23 of automation would have required capital expenditure. The Union City facility  
24 could not have – nor has it ever – produced ten trucks per day, given Workhorse’s  
25 personnel, production techniques, and facility capabilities.

26 166. Another analyst asked: “can you give us a sense of the UPS order book  
27 where that stands?” Hughes replied: “so as you know, UPS being our customer of

1 record for the last several years, they have 1,060 units on order that we are beginning  
2 to deliver in anticipation in late Q2 or Q3 this year... this all goes towards building  
3 out to that 100 to 200 units a month where we have a consistent run rate going into  
4 2021 so that we can reach those gross margin positive numbers as well as maintain  
5 and increase the run rate from month to month.”

6 167. Defendant Hughes statements regarding UPS were materially false and  
7 misleading when made. First, Hughes’ characterization of UPS as Workhorse’s  
8 “customer of record for the last several years,” was materially false and misleading  
9 as UPS had, in 2019, abandoned Workhorse for Arrival, and entered into a 10,000  
10 EV purchase order from them instead. Beyond UPS’ commitment to purchase  
11 prototype trucks, UPS did not have any binding obligation to take delivery of the  
12 remaining trucks in the order; rather, those deliveries would be fulfilled, if at all, “on  
13 a timeframe decided by [UPS] at [UPS]’s sole discretion.” Hughes stated Workhorse  
14 anticipated delivering trucks to UPS in “late Q2 or Q3” of 2020, but in truth, UPS  
15 had neither requested delivery of the trucks nor given Workhorse any indication that  
16 it would be requesting the trucks in 2020 – or ever. Thus, Defendant Hughes knew  
17 or should have known that, even if Workhorse had the capacity to meet the 300-400  
18 truck target, the Company was not going to deliver 300-400 trucks in 2020.

19 168. Additionally, in his prepared remarks, Hughes stated:

20 I'll provide a brief comment as we always do with respect to the United  
21 States Postal Service next generation delivery vehicle program. As  
22 many of you are well aware, under our NDA Workhorse is only able to  
23 provide information which is already in the public domain. As has been  
24 the case throughout this process, any further information or  
25 announcements will be issued by the United States Postal Service. We  
26 appreciate the continued interest we receive, and we will provide  
27



1 updates to the market as we are able, however, we do not have any  
2 updates to share at this time.

3 169. These statements were materially misleading, as they implied that  
4 Workhorse was still in the running to secure all or part of the USPS NGDV contract.  
5 However, Defendants knew or should have known from the critical failures  
6 discovered in the testing of the Prefix prototype submitted by Workhorse, including  
7 the 2018 “roll-away incident” which resulted in the hospitalization of a USPS test  
8 driver, paired with Workhorse’s complete lack of capability to mass-produce trucks,  
9 that the Company would not be securing the contract.

10 170. On the materially misleading positive news in the foregoing statements,  
11 the share price of Workhorse stock rose from \$2.50 at closing on March 9, 2020 to  
12 a high of \$2.76 on March 10, 2020, a rise of approximately 10%.

13 171. Based on these false and misleading statements, analysts BTIG and  
14 Cowen Equity Research both set stock price targets of \$6/share, more than double  
15 the current price of the stock. BTIG stated:

16 Management provided a 2020 vehicle production *guidance target of*  
17 *300-400 units* with initial customer deliveries expected to commence  
18 in April... the company has now transitioned to the C-Series line and is  
19 *geared (production line and staffed) up for initial production of up to*  
20 *2 trucks/day* which management expects to gradually ramp into the  
21 mid-cycle digits by year-end as the supply chain is stream-lined... Our  
22 base case scenario assumes that Workhorse does not secure the USPS  
23 contract. *We assume that WKHS is able to produce ~6 trucks/day in*  
24 *2021 growing to 18 per day by 2023 expanding the union city factory*  
25 *to exit 2025 ~42 per day.*

26 Similarly, Cowen Equity Research stated:  
27  
28

1 Management now anticipates the C-series ramp to start in April as the  
2 Company begins to produce and deliver vehicles in earnest...  
3 ***Management noted that they would ramp up to 10 trucks per day***  
4 ***before the need for additional capex to enable higher levels of***  
5 ***automation...*** The largest near-term binary event for the company is  
6 the outcome of the U.S. Postal Service contract. In our view, a positive  
7 outcome for the U.S. Postal Service contract would comfortably lead  
8 the company to profitability.

9 172. Three days later, on March 13, 2021, Workhorse filed its Annual Report  
10 on Form 10-K for the year 2019 (“2019 10-K”).

11 173. The report stated:

12 Workhorse was one of the five participants that the United States Postal  
13 Service (“USPS”) selected to build prototype vehicles for the USPS  
14 Next Generation Delivery Vehicle (“NGDV”) project. The USPS has  
15 publicly stated that approximately 165,000 vehicles are to be replaced.  
16 In September 2017, Workhorse delivered six vehicles for prototype  
17 testing under the NGDV Acquisition Program in compliance with the  
18 terms set forth in their USPS prototype contract. In 2019, the vehicles  
19 completed the required testing protocol as specified by the USPS. The  
20 USPS published a Request for Proposals in December 2019 for the  
21 Production Program.

22 174. This statement is false and misleading because Workhorse was not  
23 selected as one of the five participants to build a prototype for the USPS NGDV  
24 contract, they purchased the right to bid on the project from former partner VT  
25 Hackney. Additionally, the statement implies that Workhorse was still in the running  
26 to secure all or part of the USPS NGDV contract. However, Defendants knew or  
27 should have known from the critical failures discovered in the testing of the Prefix

1 prototype submitted by Workhorse, including the 2018 “roll-away incident” which  
2 landed a USPS test driver in the hospital, paired with Workhorse’s complete lack of  
3 capability to mass-produce trucks, that the Company would not be securing the  
4 contract. Because of the complete failure to meet safety standards during testing, it  
5 was also materially misleading to state that Workhorse’s prototype vehicles  
6 “completed” the testing protocol, without also mentioning the accident that USPS  
7 indicated was so severe that it would never have granted Workhorse the contract.

8 **B. May 6, 2020**

9 175. On May 6, 2020, Workhorse issued a Press Release filed on Form 8-K  
10 announcing their first quarter 2020 (“1Q:20”) financial results. Included as a  
11 “Highlight” was Defendants’ statement that they “[r]eaffirmed previous production  
12 and delivery target of 300-400 vehicles in 2020.” The press release contained a  
13 statement from Defendant Hughes:

14 We will be delivering our C-Series vehicles to customers in the second  
15 quarter, and *we remain on schedule to achieve our target of delivering*  
16 *300 to 400 vehicles by the end of this year.* To that end, we’re in the  
17 final stage of preparing a detailed production plan of when we can  
18 deploy vehicles into Ryder Systems’ sales channel starting in 2020 and  
19 into 2021.

20 176. The foregoing statements from Workhorse’s May 6, 2020 Press  
21 Release were materially false and misleading when made because, given  
22 Workhorse’s personnel and manufacturing facilities, Workhorse could not even  
23 produce one vehicle a day and therefore had no possibly ability to hit the target of  
24 300-400 vehicles by the end of the year in three quarters of production.

25 177. On the same day, May 6, 2020, Workhorse held an earnings call with  
26 investors, in which Hughes, Schrader, and Willison each participated. In his  
27 prepared remarks, Hughes stated: “*I’m reiterating our guidance of 300 to 400*  
28

1 ***delivery trucks produced in 2020.***” An analyst later asked about which customers  
2 would be receiving the trucks, stating: “You guys are very straightforward, 300 to  
3 400 was your original guidance, you're reiterating. Obviously, you're hearing  
4 something from your customers that gives you confidence.” Hughes replied: “we  
5 have the backlog out there in the first place with UPS and DHL... if anything,  
6 we're seeing customers very positive about our trucks and it's more, ***how soon can***  
7 ***we get them.***”

8 178. Defendant Hughes' foregoing statements were materially false and  
9 misleading when made because Workhorse did not have actual purchase orders to  
10 fill with 300 to 400 delivery trucks, even if Workhorse could manage to produce  
11 that number of trucks by the end of the year, which it could not. As stated herein,  
12 the purported “backlog” did not consist of actual orders, but rather, with regard to  
13 UPS, was based on a non-binding agreement that UPS had already abandoned in  
14 favor of Arrival, which indicated that UPS was not “very positive about  
15 [Workhorse's] trucks.” As of May 2020, UPS had neither requested delivery of the  
16 trucks nor given Workhorse any indication that it would be requesting the trucks in  
17 2020 – or ever.<sup>18</sup>

18 179. With regard to production disruptions caused by the coronavirus,  
19 Hughes also stated: “at the outset of the COVID-19 pandemic we experienced a  
20 series of supply chain disruptions and pushed back our expected initial delivery  
21 date from Q1 to our current quarter... [a]t this point, ***we feel cautiously optimistic***  
22 ***that we are moving past the disruptions to our supply chain.***” Schrader further  
23 elaborated on this point, stating: “you can't know exactly what the future will hold  
24

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25 <sup>18</sup> The number of trucks ordered by DHL is unclear, as Workhorse merely announced in March  
26 2019 that they had “Secured [a] purchase order from DHL.” However, Workhorse reported its  
27 backlog was 1100 trucks, approximately 1000 of which were for UPS, so at most DHL would have  
28 ordered 100 trucks. One news source reported that DHL had ordered 63 Workhorse trucks.  
<https://newatlas.com/dhl-greener-workhorse-delivery-trucks/58332/>

1 exactly with the virus or even with some of the state orders and stuff like that. *I*  
2 *think we feel pretty comfortable with our vendors and where they're at. They*  
3 *seem to have weathered the storm.*”

4 180. The foregoing statements made by Defendants Hughes and Schrader  
5 were materially false and misleading when made. First, Workhorse’s inability to  
6 deliver trucks in sufficient numbers was not a result of the coronavirus, but because  
7 Workhorse did not have the personnel or the manufacturing capabilities to produce  
8 trucks on any sort of large scale. Second, contrary to Hughes and Schrader’s  
9 statements that Workhorse was “moving past the disruptions to our supply chain”  
10 and that Workhorse suppliers had “weathered the storm” of COVID-19, Workhorse  
11 continued blame issues with suppliers for the rest of 2020. Later in the year, supply  
12 chain issues would be cited as a main reason Workhorse was not able to produce  
13 300-400 trucks in 2020.

14 181. When analyst Jeff Osborne asked: “I think the last call as of a month  
15 ago or so there was a discussion from Duane [Hughes] about having the capability  
16 of producing two trucks a day. I didn’t know if you could just update us on Union  
17 City. Do you have the staff to do that?” Hughes responded: “we’re fully staffed  
18 with the current staff that could still meet that two units per day.”

19 182. Defendant Hughes’ statement were materially false and misleading  
20 because, at the time the statement was made, 1) the Union City, Indiana facility had  
21 no automation, no assembly lines, and only 12 employees who assembled trucks one  
22 at a time by hand; and 2) Workhorse reported 1Q:20 sales of \$84,000, the equivalent  
23 of approximately one truck for the quarter, so it was not producing two trucks per  
24 day as implied by Hughes.

25 183. On the earnings call, Craig Irwin, an analyst from Roth Capital,  
26 inquired further about the supply chain, namely, about the ability of Workhorse’s  
27 suppliers to meet the needs of the USPS NGDV contract, were Workhorse to secure

1 all or part of it. Schrader used the NDA as a shield and stated that he could not  
2 comment, to which Irwin asked, “So you can't talk about the capabilities of a supply  
3 chain to serve the post office? Is that off-limits?” Schrader replied, “I would think  
4 it's a similar supply chain that would supply the current trucks that would supply a  
5 post office vehicle.”

6 184. This response was materially false and misleading because, in truth,  
7 Workhorse had not considered whether its supply chain could handle the 165,000  
8 vehicle USPS NGDV Contract, as the 2018 “roll-away incident” which landed a  
9 USPS test driver in the hospital, paired with Workhorse's complete lack of capability  
10 to mass-produce trucks, meant that the Company would not be securing the contract.  
11 Additionally, as CW1 explained, as of May 2020 Workhorse did not have an  
12 accurate view of the parts and components of their prototype vehicle, which was  
13 designed by Detroit-based company Prefix. CW1 wanted to develop a more detailed  
14 list of parts and components in order to improve the vehicle's eventual cost and  
15 performance, however, he was told in June 2020 that his project would be put on  
16 hold. Because Defendants had sufficiently spoke on the topics of the feasibility of  
17 USPS NGDV Contract and of the supply chain generally as it related to the  
18 Company's business vehicle output, Defendants were obligated to address these  
19 issues, such that their failure to do so was a material omission.

20 185. On the same day, May 6, 2020, Workhorse filed its quarterly report on  
21 Form 10-Q for Q120. The Form 10-Q was signed by Defendants Hughes, Schrader,  
22 and Ackerman. The Q120 Form 10-Q discussed Workhorse's participation in the  
23 Paycheck Protection Program (“PPP”), stating “[t]he Company received total  
24 proceeds of \$1.4 million from the PNC Note. In accordance with the requirements  
25 of the CARES Act, the Company will use proceeds from the PNC Note primarily  
26 for payroll costs.”

1 186. The foregoing statement was materially false and misleading when  
2 made because CW2, an Executive Director of Human Resources from December  
3 2019 through June 2020, stated that the PPP funds were not primarily used for  
4 payroll costs, but to pay executive bonuses.

5 187. Analysts responded favorably to Defendants' false and misleading  
6 statements. For example, on May 6, 2020, a report from Cowen Equity Research  
7 stated:

8 After a tough few quarters, we see greener pastures ahead and a  
9 potential binary outcome with USPS... Workhorse has thus far  
10 **successfully managed through the COVID-19 pandemic**. The  
11 company still has a **1,000+ unit order backlog with UPS and DHL** and  
12 is actively engaged with Ryder to penetrate their channel with the new  
13 C1000 electric step van. Production has resumed in April and the  
14 company has staffing to produce 2 trucks per day and **continues to**  
15 **target 300-400 for the year**... We remain constructive on shares given  
16 the visibility for C-Series deliveries to UPS, W-15 royalties, and  
17 optionality of the U.S. Postal Service contract...

18 And on May 7, 2020, a note by Roth Capital Partners stated:

19 Workhorse is making strong progress towards production of its C-650  
20 and C-1000 all electric trucks, where commercial production should  
21 start in 2Q20. Mgmt maintained guidance for 300-400 units delivered  
22 in 2020, based on a healthy backlog and customers waiting for vehicle  
23 delivery. (Our 2020 model conservatively factors 150 C-Series  
24 deliveries)... **Mgmt maintained guide for 300-400 vehicles delivered**  
25 **in FY20**. Workhorse has been deemed an essential business, and has  
26 kept its workforce intact during the COVID-19 pandemic. **Deliveries**  
27 **are still on track to commence in 2Q20**.



1 188. Based in part on Defendants’ false and misleading statements,  
2 Workhorse began fundraising, securing \$70 million in new financing by the end of  
3 June, 2020. The stock price began skyrocketing, surging from an opening price of  
4 \$3.19/share on May 6, 2020 to \$17.02/share by the end of June, 2020.

5 **C. July 23, 2020**

6 189. On July 23, 2020, Workhorse published a press release (not filed on  
7 SEC Form 8-K, despite the materiality of the news) that it had secured an order of  
8 20 trucks from a new electronic vehicle start-up, eTrucks. In the press release  
9 Hughes stated “Bill [Hamilton, Managing Partner of eTrucks] and his partner **Brian**  
10 **Carr** are building a valuable sales and distribution platform for an underserved  
11 market. The SMB fleet operator represents a major opportunity for additional sales.”

12 190. The foregoing statement materially misled the market into believing  
13 that Workhorse had a flow of legitimate purchase orders for their vehicles, as this  
14 “order” came from a business created one month prior with no footprint for a  
15 “valuable sales and distribution platform.” As discussed above, Brian Carr was the  
16 CEO of EVFS, a temporary staffing company CW2 stated had ties to Defendant  
17 Willison, which Workhorse used to fill myriad positions from engineers to sanitation  
18 workers at a 60-70% markup. eTrucks’ articles of organization, signed by Carr (not  
19 Hamilton), were filed with the Ohio Secretary of State on June 22, 2020 – about one  
20 month prior to the July 23, 2020 press release. The eTrucks website,  
21 <https://etrucks.webflow.io/>, is registered to a British Indian Ocean Territory domain.  
22 The website very simplistic and does not contain a business address, headquarters,  
23 information on the history of the company, or any links other than a generic “contact  
24 us” form. Instead, it appears to be a promotional site advertising Workhorse trucks,  
25 with banners advertising “Drive a Workhorse truck” and “We make owning a  
26 Workhorse truck easy!”

1 191. Other than this website, eTrucks has no other online presence, and to  
2 date, eTrucks has not taken delivery of or paid for the 20 trucks mentioned in the  
3 July 23, 2020 press release. Based on these facts, it appears that the entity eTrucks  
4 was created solely for the purpose of placing an order of Workhorse trucks, making  
5 it appear the backlog was larger and customer base was broader than in reality.

6 **D. July 24, 2020**

7 192. On July 24, 2020, Schrader conducted an interview with online  
8 financial news outlet Benzinga. When asked about the status of the Company,  
9 Schrader responded:

10 We are actually making, um, actually making trucks right now at our  
11 Union City, Indiana plant, um, and, uh, and *we plan to make 300-400*  
12 *this year*. Um, most of those will be at the very end of the year, in the  
13 last quarter. Um, and we also have a backorder of 1,100, uh, vehicles  
14 so we've already got sales out there from UPS and DHL.

15 When asked:

16 What happens, say hypothetically you don't get the post office contract, um,  
17 you've talked about some of your other businesses, where, um, obviously, is  
18 your focus going to go from that?

19 Schrader responded:

20 I think it's on the C-Series and the drone. Again, the post office to me,  
21 I always refer to as the cake on the icing, because it's so big, but from  
22 a standpoint of uh, *the actual business what I'll call is the non-post-*  
23 *office business we think is great*.

24 193. These statements were materially false and misleading because: 1)  
25 Schrader knew or should have known that Workhorse would not be able to produce  
26 300-400 trucks in 2020 at the Union City facility, as the facility had no automation,  
27 was understaffed, and workers could only assemble trucks one at a time on wooden  
28

1 benches; 2) Schrader omitted that the UPS order, the majority of the backlog he  
2 touted, was to be delivered “on a timeframe decided by [UPS] at [UPS]’s sole  
3 discretion,” and the order could be cancelled by UPS in its entirety; and 3) For  
4 1Q:20, sales of C-Series trucks was \$84,000 and cost of goods sold was \$1.7  
5 million– so the business was not doing “great.”

6 **E. August 10, 2020**

7 194. On August 10, 2020, Workhorse issued a Press Release filed on Form  
8 8-K announcing their second quarter 2020 (“2Q:20”) financial results. Included as a  
9 “Highlight” was “[r]eaffirmed previous production and delivery target of 300-400  
10 vehicles in 2020.” A “Recent Operational Highlight” was “Delivered two C-1000  
11 electric step vans for initial use through Ryder System, Inc.’s ChoiceLease and  
12 SelectCare product lines.”

13 195. The foregoing statements from Workhorse’s August 10, 2020 Press  
14 Release were materially false and misleading when made because Workhorse had  
15 no capability to manufacture 300-400 trucks by the end of 2020. Through the first  
16 two quarters of 2020, Workhorse had manufactured few trucks (and only two in the  
17 recent quarter), and their personnel, facility and manufacturing limitations prevented  
18 the Company from coming anywhere near their target by the end of the year.

19 196. On the same day, August 10, 2020, Workhorse held an earnings call, in  
20 which Hughes, Schrader, and Willison each participated. In his prepared remarks,  
21 Schrader stated:

22 In addition, and to be clear, expectation should be, *the vast majority of*  
23 *our 300 to 400 vehicle production target would be manufactured and*  
24 *delivered by the end of the fourth quarter of this year.*

1 Hughes stated:

2 The goal... is to considerably shorten timeframes to assemble a C-  
3 Series vehicle and *deliver our target vehicle production of 300 to 400*  
4 *units* later, with a vast majority coming in the fourth quarter.

5 When Colliers analyst Mike Shilsky asked:

6 I know you want to get to 100 vehicles a month for the fourth quarter.  
7 So is there any sense as to where you might start the quarter? Where  
8 you might end the quarter? Whether that ending exit rate is kind of a  
9 good place to start for 2021?

10 Willison responded:

11 Really the ramp starts from here and goes up. And *what we're really*  
12 *looking at is fourth quarter to do 100 a month*. But beginning next  
13 year, really taking that up a good bit past that, 150 up to 200 a month  
14 as the market allows.

15 197. The foregoing statements from Defendants Hughes, Schrader and  
16 Willison regarding meeting Workhorse's production targets largely with trucks  
17 produced in the fourth quarter were materially false and misleading when made.  
18 Workhorse had no ability to manufacture approximately 100 trucks a month (over 3  
19 a day). Their Union City, Indiana facility had no automation, no assembly lines, and  
20 their handful of workers assembled trucks one at a time by hand on wooden benches,  
21 which took weeks, not hours to produce. The only plan Workhorse had to  
22 "considerably shorten timeframes to assemble a C-Series vehicle" at the Union City  
23 facility was to offer further training to its employees, but training alone would not  
24 allow workers to go from building two trucks per quarter to the 100 trucks per month  
25 promised by Willison, much less the 150-200 trucks per month he stated would be  
26 produced in 2021.

27

28

1 198. When BTIG analyst Greg Lewis asked where the vehicles would be  
2 produced if Workhorse were to secure all or a portion of the USPS contract, Schrader  
3 responded: “As you know, we can't say anything about the post office,” but he  
4 continued “So let me say it this way. Is that Union City certainly has the ability and  
5 the history that can be really any capacity level as it done 60,000 chassis, I think in  
6 its history.”

7 199. These statements were materially false and misleading because the  
8 Union City facility was entirely incapable of producing the approximately 165,000  
9 vehicles involved in the USPS contract. Indeed, Schrader often cited the fact that  
10 Navistar had previously produced “60,000 chassis” in the Union City facility as  
11 proof that Workhorse would be able to produce 165,000 vehicles were Workhorse  
12 to secure the USPS NGDV contract, and analysts took Schrader’s representations  
13 about the 60,000 chassis produced by Navistar as an indication of how many trucks  
14 Workhorse could produce in a year, for example, on May 28, 2020 an analyst from  
15 Dougherty & Company wrote, “WKHS’s Union City plant has ***the ability to produce***  
16 ***over 60,000 vehicles per year*** when fully ramped up, so the company certainly has  
17 the space to build the vehicles if it received a sole-source award.” And on September  
18 2, 2020, an analyst from Oppenheimer wrote “Workhorse manufactures these  
19 vehicles at its 265,000 sq ft plant in Union City, Indiana. ***The facility has the***  
20 ***capacity to produce up to 60,000 vehicles per year.***”

21 200. However, this analogy is misleading, because 1) The 60,000 chassis  
22 were produced over a period of 7 years; 2) Navistar factories have automation, but  
23 the machines at the Union City facility were moved to Navistar’s Springfield, Ohio  
24 plant when Navistar vacated Union City; and 3) The chassis produced by  
25 Workhorse/Navistar were just metal frames with a diesel engine attached, and had  
26 far fewer components than Workhorse’s fully assembled electric trucks. Thus, the  
27 fact that Navistar was able to produce 60,000 chassis in the Union City facility was,

1 in no way, indicative that Workhorse would be able to produce 165,000 trucks for  
2 the USPS NGDV contract at the Union City facility.

3 201. Further, even if Workhorse had been able to produce 300 trucks in  
4 2020, as of August 2020 there was no customer to take delivery of the trucks. Hughes  
5 stated in the August 10, 2020 call that Workhorse's backlog was 1,200 trucks,  
6 approximately 1,000 of which were designated for "anchor customer" UPS. When  
7 an analyst asked if there was any update on when UPS would take delivery of the  
8 trucks, Hughes stated: "Nothing really. Except that – that order is still out there." In  
9 reality, UPS had neither requested delivery of the trucks nor given Workhorse any  
10 indication that it would be requesting the trucks in 2020 – or ever. Thus, Defendants  
11 knew or should have known that, even if Workhorse had the capacity to meet the  
12 300-400 truck target, the Company was not going to deliver 300-400 trucks in 2020.

13 202. The August 10, 2020 press release also stated that a highlight of the  
14 quarter was that Workhorse "[r]eceived initial purchase order for 20 C-1000 trucks  
15 from eTrucks LLC." Schrader also stated during the August 10, 2020 earnings call:

16 Speaking of orders in July, a Cincinnati-based company eTrucks placed  
17 an initial order for 20 C-1000 vehicles. eTrucks is a buyer, reseller and  
18 financier of trucking solutions for small to medium sized delivery  
19 businesses or SMBs. The SMB fleet operator represents an opportunity  
20 for additional sales. And we're looking forward to growing our  
21 partnership with another Ohio-based organization to improve last-mile  
22 delivery for everyone.

23 203. As discussed above, these statements are false and misleading because  
24 eTrucks was a company founded by an associate of Willison for the sole purpose of  
25 placing a purchase order of Workhorse trucks. Thus, the 20 vehicle "order" by  
26 eTrucks was not a "highlight" of the quarter, but rather a fiction created to inflate  
27

1 the Company’s purported “backlog,” impress the investing market, and drive up the  
2 Workhorse’s stock price.

3 204. Additionally, in his prepared remarks, Defendant Hughes stated:

4 I’ll provide a brief comment, as we always do with respect to the U.S.  
5 Postal Service, next-generation delivery vehicle program. As many of  
6 you are well aware under our NDA, Workhorse is only able to provide  
7 information which is already in the public domain. As has been the case  
8 throughout this process, any further information or announcements will  
9 be issued by the U.S. Postal Service. We appreciate the continued  
10 interest that we are receiving and will provide updates to the market as  
11 we are able. We do not have any updates to share at this time.

12 205. This statement was materially false and misleading, as it implied that  
13 Workhorse was still in the running to secure all or part of the USPS NGDV contract.  
14 However, Defendants knew or should have known from the critical failures  
15 discovered in the testing of the Prefix prototype submitted by Workhorse, including  
16 the 2018 “roll-away incident” which landed a USPS test driver in the hospital, paired  
17 with Workhorse’s complete lack of capability to mass-produce trucks, that the  
18 Company would not be securing the contract.

19 206. On the same day, August 10, 2020, Workhorse filed its quarterly report  
20 on Form 10-Q for 2Q:20. The Form 10-Q was signed by Defendants Hughes,  
21 Schrader, and Ackerman. The 2Q:20 Form 10-Q discussed Workhorse’s  
22 participation in the PPP, stating “[t]he Company received total proceeds of \$1.4  
23 million from the PNC Note. In accordance with the requirements of the CARES Act,  
24 the Company will use proceeds from the PNC Note primarily for payroll costs.”

25 207. However, this statement was materially false and misleading. CW2, an  
26 Executive Director of Human Resources from December 2019 through June 2020,  
27



1 stated that the PPP funds were not primarily used for payroll costs, but to pay  
2 executive bonuses.

3 208. Analysts covering Workhorse reacted favorably to these statements by  
4 Defendants. For example, an analyst from BTIG stated:

5 WKHS released Q2 earnings (BMO), with our key takeaways being 1)  
6 WKHS *reaffirmed its 300-400 unit production target for 2020*  
7 (management expects to get to a 100 unit/month run-rate in 4Q20, 2)  
8 Cash stands at \$105M (following the \$70M convertible issuance and  
9 exercise of warrants), and 3) While the USPS update was boilerplate, it  
10 was reported this week Mahindra Motors (Not Rated) has backed out  
11 of the ongoing USPS tender *leaving just 3 finalists including WKHS...*  
12 Also in July WKHS secured a 20 unit order with eTrucks, a newly  
13 launched buyer/ reseller which is also viewed as testing ground for  
14 customers... *We expect UPS deliveries to start later this year...*

15 Likewise, a report from Colliers International stated:

16 *The outlook for the shipment of 300-400 units in 2020 was*  
17 *maintained...* All eyes will be on Q3, however, as we believe WKHS  
18 intends to ship *material numbers of units to its initial customers...*

19 And Cowen Equity Research published a note stating:

20 WKHS delivered its first three C1000 electric step vans in July,  
21 including two to Ryder, after the truck received final certification in  
22 2Q. The 2H ramp remains on track and management *continues to target*  
23 *300-400 vehicles by the end of the year.* After a tough few quarters, we  
24 see greener pastures ahead and a potential binary outcome with USPS.  
25 10% stake in LMC valued at \$160mn after SPAC closes... *The*  
26 *company still has a 1,000+ unit order backlog with UPS and DHL* and  
27

1 last month received a purchase order for *20 C1000 trucks from*  
2 *eTrucks. Management continues to target 300-400 for the year...*

3 209. The same day, August 10, 2020, the price of Workhorse stock rose from  
4 \$15.96 per share to an intra-day high of \$17.00 per share on unusually high trading  
5 volume.

6 **F. August 14, 2020**

7 210. On August 14, 2020, Defendant Schrader was interviewed by Jack  
8 Spencer on the YouTube channel, Jack Spencer Investing<sup>19</sup>. This video has about  
9 41,500 views on YouTube, and about 3,500 likes. There is no safe-harbor warning  
10 or cautionary language of any kind in this video, except for Spencer stating (and  
11 wearing a t-shirt which stated) that he was not a financial advisor.

12 211. In the interview, Defendant Schrader stated that Workhorse had hired  
13 115 new employees, mainly in engineering and production positions, and that the  
14 Company had begun work on a refrigeration truck to deliver groceries. Schrader  
15 stated, “We’ve got a prototype started on that, so it’s not only just engineering and  
16 production right now, *how to get to kind of our three to four hundred this year, uh,*  
17 *in the fourth quarter*, but also thinking about what we’re going to do next.”

18 212. Later, Spencer asked:

19 Obviously you guys have your own plant, and *it’s a fairly massive plant*  
20 *for the stage we’re<sup>20</sup> at right now*, do you plan on ever having to  
21 outsource to Lordstown motors in order to hit those targets or would  
22 that not even really have to be a thought process as of right now?  
23  
24  
25

26 <sup>19</sup> See <https://www.youtube.com/watch?v=vediWHBsMC0>

27 <sup>20</sup> Spencer often used the pronouns “we” and “our” when referring to Workhorse.

1 Schrader replied:

2 Well I don't want to use the word 'we'd have to,' I would say it's a  
3 great option for us. *So like you said Union City, Indiana, our factory*  
4 *right there, that used to put out 60,000 chassis in the Navistar days*  
5 *and stuff like that so it has – it can do probably a very similar amount*  
6 *from the standpoint of trucks.* I think, uh, what we would look at, um,  
7 would be would we have to spend capital to maybe *automate it a little*  
8 *bit more* to get the volumes eventually we would want to be.

9 213. Spencer also asked for an update on the USPS NGDV contract, but  
10 Schrader replied with a smile that he could not comment due to the NDA.

11 214. These statements were materially false and misleading because  
12 Schrader knew or should have known that Workhorse would not be able to produce  
13 300-400 trucks in 2020 at the Union City facility, as the facility had no automation  
14 and workers could only assemble trucks one at a time on wooden benches. While  
15 Schrader proclaimed that Workhorse had hired 115 new employees, when Fuzzy  
16 Panda Research investigators visited the facility in September, 2020, they found just  
17 six employees standing around on the production floor; thus, even if Workhorse had  
18 hired 115 new employees, they were not involved in “engineering and production”  
19 as Schrader represented. Additionally, as discussed above, the fact that Navistar was  
20 able to produce 60,000 chassis in the Union City facility was, in no way, indicative  
21 that Workhorse would be able to produce 165,000 trucks for the USPS NGDV  
22 contract at the Union City facility, because 1) The 60,000 chassis were produced  
23 over a period of 7 years; 2) Navistar factories have automation, but the machines at  
24 the Union City facility were moved to Navistar's Springfield, Ohio plant when  
25 Navistar vacated Union City; and 3) The chassis produced by Workhorse/Navistar  
26 were just metal frames with a diesel engine attached, and had far fewer components  
27 than Workhorse's fully assembled electric trucks.

1 215. Further, the 2018 “roll-away incident” which landed a USPS test driver  
2 in the hospital, paired with Workhorse’s complete lack of capability to mass-produce  
3 trucks and meet the basic Technical evaluation criteria under the USPS Solicitation,  
4 meant that the Company would not be securing the USPS NGDV contract.

5 216. Many commenters on this video, relying on Schrader’s positive outlook  
6 on the company, stated that they would be purchasing shares of Workhorse. For  
7 example, User Jamador 135990 stated “Literally just increased my shares to 100 for  
8 WKHS...let’s go!!!” User Graham Morgan stated: “£8000 just added to my position  
9 off the back of that. Interesting chat about refrigeration and Walmart. That would be  
10 massive. Good effort with that Jack!” User it’s HONEY commented “Im going to  
11 wake up tomorrow with workhorse stock skyrocketing because of this video.”

12 217. Additionally, the consensus among many commenters was that  
13 Schrader knew more than he was saying about the USPS NGDV contract. For  
14 example, user Joseph Kennedy stated: “As someone that's worked for the US  
15 government. I can tell you it's a waiting process. Even if he knows the final result  
16 it's pretty much classified until the release date. ***Judging from his demeanor I think***  
17 ***he knows some positive news!***” Neither Spencer nor Defendant Schrader replied to  
18 this comment to clarify the misunderstanding, despite the ability to do so.

19 218. This was the first of several appearances Defendant Schrader made on  
20 Spencer’s YouTube channel. The video has the most views of any of the videos on  
21 Spencer’s channel and is featured on the channel’s home page to this day.

22 219. Prior to mid-2020, Spencer’s videos did not all focus on investing, for  
23 example, many focused on fitness (such as a February 22, 2020 video titled “Clothes,  
24 Cereal, and Squats” which garnered 180 views) and videos of Spencer hanging out  
25 with his girlfriend (such as a March 7, 2020 video titled “Why you SHOULD go to  
26 BUDAPEST” which garnered 134 views). However, shortly before the interview  
27 with Defendant Schrader, Spencer began producing videos with tips about stocks

1 and investing. Many of his videos focus on Workhorse and Lordstown, hyping the  
2 stocks even when they are at low points.

3 220. Jack Spencer Investing is not the only YouTube channel promoting  
4 Workhorse stock – the Fuzzy Panda Report identified 80 individuals who regularly  
5 promoted Workhorse, in a total of nearly 420 videos from June 2020 to October  
6 2020. Similar to Spencer, many of the individuals made videos about various  
7 subjects, then, around mid-2020, suddenly switched to only posting videos about  
8 investing. Fuzzy Panda speculated, based on this odd pattern and the immense  
9 amount of coverage of this smaller company, that Workhorse illegally paid these  
10 individuals to promote their stock.

11 221. After the Fuzzy Panda Report was published, dozens of individuals,  
12 including Spencer, posted videos disparaging the report and claiming that they had  
13 never received any payment from Workhorse. Many of the individuals continued  
14 posting regular videos about the Company. In fact, on June 3, 2021, Spencer posted  
15 a video proclaiming “WKHS up 75%? Short Squeeze - Am I Buying?” The video  
16 opens with Spencer, distorted through a filter, mockingly saying “Ugh, why are you  
17 still speaking about Workhorse, I’m upset!” Then removing the filter and joyfully  
18 proclaiming “If you don’t like it, get out of here baby!”

19 **G. August 17, 2020**

20 222. On August 17, 2020, Defendant Willison appeared on Supply Chain  
21 Innovation podcast, hosted by William Crane. Regarding Workhorse’s recent \$70M  
22 fundraising, Willison stated: “Because of our progress in the EV field, *because of*  
23 *our associations with UPS* and things, we’re finally, not only getting the volume of  
24 funding, but at rates that are sustainable.”

25 223. This statement was materially false and misleading because  
26 Workhorse’s purported “association[.]” with UPS was highly conditional and  
27 cancellable, and not at all indicative of future volume and funding. Additionally,

1 according to UPS' 2019 sustainability report, UPS had abandoned Workhorse for an  
2 affiliation with Arrival, a competing electric truck manufacturer, and had ordered  
3 10,000 EVs from them instead.

4 224. In the interview, Crane asked:

5 What do you think led to the company's ability to deliver, not just to  
6 deliver some additional mule vehicles or deliver that first couple of  
7 production vehicles, but to *consistently ship product* to the riders of the  
8 world? What led to that?

9 Willison replied:

10 Well, you know, we, we follow, and there's you know, a zillion  
11 different design methodologies, but we somewhat follow the  
12 Department of Defense preliminary design and review, critical design  
13 review, stage gates, and that seems to work well for us. We've really –  
14 you know, vernacular we talk in engineering about design freeze... *no,*  
15 *it's good enough, you know, release it, let's get it purchased, get on*  
16 *with things*. And so that's one of the principles that's allowed us to say,  
17 okay, we'll save those ideas for the next version, but we're going to  
18 release these now.

19 225. This response was materially false and misleading because Willison  
20 neglected to inform Crane that Workhorse had, in fact, only produced "that first  
21 couple of production vehicles" and did not "consistently ship product to the riders  
22 of the world." In fact, Willison's comments about design freeze imply that trucks  
23 were getting purchased on a regular basis, and that Workhorse was consistently  
24 creating new versions of the C-series trucks. However, in truth, Workhorse only  
25 produced two trucks in Q220.

1           **H. August 31, 2020**

2           226.       On August 31, 2020, Workhorse announce via press release (not filed  
3 on SEC Form 8-K, despite the materiality of the announcement), that it had formed  
4 a “strategic relationship” with Hitachi and Hitachi Capital America. The press  
5 release stated, “Under these agreements, Hitachi...will provide an operational  
6 assessment of Workhorse's manufacturing, operational and supply chain  
7 capabilities, benchmark to best-in-class standards and provide recommendations to  
8 Workhorse that support the Company's increased production requirements.” The  
9 press release quotes Hughes stating, “This alliance with Hitachi comes at an ideal  
10 time for Workhorse as we value their best in class innovation and experience in  
11 ramping up production and enabling us in providing a complete solution to our  
12 customers.”

13           227.       For the next several months, Defendants represented that the agreement  
14 with Hitachi would facilitate the “ramp up” of production at the Union City facility.  
15 For example, on October 29, 2020, in an interview with Benzinga, Schrader stated  
16 that the Hitachi agreement would “let us go from maybe 5, 10/day to 40 or 50 a day.”

17           228.       However, these statements were materially false and misleading. What  
18 defendants described as a “strategic agreement” was merely an agreement for  
19 consulting services. As the Fuzzy Panda Report explained:

20           Workhorse is paying Hitachi a consulting fee to assess the  
21 improvements it needs to make at Union City and Loveland in order to  
22 produce trucks (perhaps this is a premonition into Worhorse’s reliance  
23 on Lordstown for manufacturing moving forward). After our recent  
24 visit, we (Fuzzy Panda Research) are happy to provide our assessment  
25 for free – YOU NEED TO BUY ROBOTS TO BUILD TRUCKS. Your  
26 competitors started doing this in the 1940s & 1950s.



1 Defendants also omitted the plain truth – they were unwilling or unable to put any  
2 capital expenditure into automating the Union City facility, and without such  
3 automation, Workhorse would not even be able to produce 5 to 10 trucks per day,  
4 much less 40 or 50 per day.

5 229. Additionally, due to the COVID-19 pandemic – which was already  
6 widespread in the United States as of August 2020 – Hitachi was never even able  
7 to visit the Union City facility to provide the much-hyped consulting services. In a  
8 January 28, 2021 interview with Jack Spencer, Schrader revealed: “at one point,  
9 probably 30-40% of our production crew out, um, all the way through December –  
10 early December... we couldn’t have Hitachi and/or Belkin in to help us out,  
11 because you really can’t expose more people to that.”

12 **I. October 15, 2020**

13 230. On October 15, 2020, Schrader appeared on TD Ameritrade Morning  
14 Trade Live. Schrader stated: “Right now we’ve delivered, you know, a handful of  
15 vehicles out there but *we have a plan to build and manufacture and deliver 300-*  
16 *400 this year*, and most of those will come in this quarter right now, and then  
17 continue that to maybe 200 a month or so next year.” He also told the reporter that  
18 Workhorse had a 1,100-1,200 vehicle backlog worth \$70M, which would be coming  
19 forward “probably sometime in the next 12 months.”

20 231. This statement was false and misleading because Defendants knew or  
21 should have known that Workhorse would not be able to produce 300-400 trucks in  
22 the 10 remaining weeks of 2020 at the Union City facility, as the facility had no  
23 automation and workers could only assemble trucks one at a time on wooden  
24 benches. Beginning in early October, 2020, Workhorse had a major labor shortage,  
25 as, according to later statements of the Company, nearly 40% of workers contracted  
26 or were exposed to COVID-19, and were unable to work. Assuming the factory was  
27 open every day, taking no breaks for weekends or the winter holidays, Workhorse

1 would have had to produce approximately 5 trucks per day to meet the 400 truck  
2 target. At the time, the facility was not even producing one truck per day. It was also  
3 later revealed that, around October 1, Workhorse’s battery manufacturer told  
4 Workhorse they would not be able to produce 300 batteries before the end of the  
5 year, so even if Workhorse had the capacity to build the trucks, they would not have  
6 been able to complete and deliver them. Defendant Schrader knew or should have  
7 known, at the time he made this statement, that it was not feasible for Workhorse to  
8 produce anywhere near 300-400 trucks in 2020.

9 232. Additionally, the statement was materially false and misleading  
10 because the majority of the purported backlog was approximately 1,000 trucks from  
11 a 2019 agreement with UPS. The UPS Agreement stated that delivery of the trucks  
12 would be “on a timeframe decided by [UPS] at [UPS]’s sole discretion,” and UPS  
13 had the ability to “reduce the quantity of the balance of the Order (or cancel the  
14 balance of the Order).” As of October 2020, UPS had neither requested delivery of  
15 the trucks nor given Workhorse any indication that it would be requesting the trucks  
16 in 2020. Schrader knew or should have known that the referenced \$70 million was  
17 conditioned on UPS requesting delivery of the balance of their order, and that there  
18 was no guarantee that this request would ever occur, much less within 12 months of  
19 the interview.

20 233. This interview helped maintain the price of the stock, which opened at  
21 \$22.39 per share and closed at \$22.30 per share.

22 234. The next day, October 16, 2020, Defendant Hughes exercised his option  
23 to buy 50,000 shares of Workhorse stock at \$5.28 per share, then sold them at \$23  
24 per share, for a profit of \$886,000.

1           **J. October 29, 2020**

2           235.       On October 29, 2020, Schrader was interviewed once again by online  
3 financial news outlet Benzinga. Regarding the 300-400 vehicle target for 2020,  
4 Schrader stated:

5                   we've got everything in place right now, so we've got the labor and  
6 materials coming in, and from our standpoint *we still have the 300-400*  
7 *that we have out there, and that's our goal.* Right now we have two  
8 facilities, our Union City and our Lordstown location, so yeah, as far as  
9 we are going right now, we're good on that.

10          236.       This statement was materially false and misleading. At the time it was  
11 made, there were only about two months left in the year 2020. The Union City  
12 facility still had no automation, no assembly lines, and a massive shortage of  
13 workers. As was later revealed by the Company, around early October, 2020, nearly  
14 40% of Workhorse's employees contracted or were exposed to COVID-19, and were  
15 unable to work. Assuming the factory was open every day, taking no breaks for  
16 weekends or the winter holidays, Workhorse would have had to produce  
17 approximately six trucks per day to meet the 400 truck target. At the time, they were  
18 not even making one truck per day. Further, Workhorse was not producing trucks in  
19 the Lordstown facility as of October 2020, which was run by Lordstown Motors and  
20 not, as Defendant Schrader implies, Workhorse. It was also later revealed that,  
21 around October 1, Workhorse's battery manufacturer told Workhorse they would  
22 not be able to produce 300 batteries before the end of the year, so even if Workhorse  
23 had the capacity to build the trucks, they would not have been able to complete and  
24 deliver them. Schrader knew or should have known, at the time he made this  
25 statement, that it was not feasible for Workhorse to produce anywhere near 300-400  
26 trucks in 2020, especially because, less than two weeks later, the Company would  
27 say that they expected "substantially less" than their 300-400 truck guidance. It is

1 simply not plausible that the Company would go from meeting this guidance to  
2 “substantially” underperforming in less than two weeks.

3 237. When asked about the status of the USPS NGDV Contract, Defendant  
4 Schrader, after explaining he was limited by the NDA, stated, “the Post Office is  
5 bidding out 165,000 vehicles, so it’s a huge fleet opportunity, and I think from our  
6 standpoint it would be transformative, right?”

7 238. The foregoing statement was materially false and misleading when  
8 made, because, Defendants knew or should have known that Workhorse would not  
9 win the USPS contract bid, and that it would not “transform[]” the Company. In  
10 addition to the roll-away incident, the USPS had informed Workhorse less than two  
11 months before, on September 3, 2020, of significant “questions and weaknesses” in  
12 a “List of Deficiencies,” that focused on the Technical Evaluation Factors considered  
13 by the USPS, which prompted a 99-page response from Workhorse, as well as  
14 follow-up discussions on October 8-9, 2020, and an additional request for  
15 information on October 21, 2020, just over a week before this interview.

16 239. The price of Workhorse stock rose, intra-day, from \$16.90 to a high of  
17 \$18.04, or approximately 7%.

18 **K. November 9, 2020**

19 240. On November 9, 2020, Workhorse issued a Press Release filed on Form  
20 8-K announcing their third quarter 2020 (“3Q:20”) financial results. In the Press  
21 Release, Hughes is quoted as saying:

22 Previously, we projected 300-400 vehicles to be produced by the end  
23 of 2020, mostly in the fourth quarter. Although we will still  
24 manufacture and deliver vehicles in Q4, it will be a substantially lower  
25 amount than our previous guidance... While we cannot predict the full  
26 impact from COVID right now, let alone in 2021, when conditions  
27 improve and the coronavirus is no longer a business issue for us and

1 our suppliers, *then we would anticipate producing approximately*  
2 *1,800 units in 2021.*

3 241. This statement was materially false and misleading because, regardless  
4 of the global pandemic, Defendants did not actually anticipate producing 1,800  
5 trucks in 2021. 1,800 trucks in a year – or approximately 7 trucks per day assuming  
6 workers would take weekends off – would require adding employees and automation  
7 to the Union City facility, actions which Workhorse announced no plans to take.

8 242. On the same day, November 9, 2020, Workhorse held an earnings call  
9 with investors, in which Hughes, Schrader, and Willison each participated.  
10 Regarding the reasons Workhorse would not meet its 300-400 truck per month  
11 guidance, Hughes stated:

12 We are currently experiencing new positive cases on a daily basis and  
13 having *more than 36% of our production-related staff currently out*,  
14 we must protect our employees health, which requires us to modify the  
15 assembly process and limit production support and access to our  
16 facilities from the third-party sources. Second is the *inability of our*  
17 *primary battery supplier to meet our volumes* due to capacity issues  
18 and COVID-related slowdowns.”

19 Regarding the battery supply issues, Willison stated:

20 *We always have a backup supplier.* We have had very good luck with  
21 our primary and it is certainly not a performance issue. But we are  
22 looking because of *our volume and increased orders* for secondary  
23 suppliers.

24 243. The foregoing statements were materially false and misleading because  
25 Defendants erroneously blamed the fact that Workhorse would not be producing  
26 300-400 vehicles in 2020 – a number Schrader had *publicly confirmed just two*  
27 *weeks prior* – on the COVID-19 pandemic. In truth, Defendants knew from the time

1 they set the target in March, 2020 that – pandemic or not – it would be impossible  
2 for Workhorse to produce 400 trucks in a facility with no automation and no  
3 assembly line, where vehicles were produced one at a time on wooden workbenches.

4 244. It was also misleading that Defendants blamed their battery supplier,  
5 Ener-Del, for the failure to meet their target. Defendants knew or should have known  
6 that the small, independent supplier may not have been capable of such a large order.  
7 As an analyst from Roth Capital Partners pointed out, “Mgmt has repetitively  
8 defended its use of EnerDel as a supplier, *despite broad market knowledge that the*  
9 *manufacturer has had challenges delivering product.*” If Defendants had truly  
10 anticipated producing 300-400 units in 2020, they would have had a back-up  
11 supplier in place far earlier. However, Defendants knew from the time they set the  
12 300-400 unit target, that the capacity of the supplier did not matter, as Workhorse  
13 was not capable of meeting the target regardless of the availability of the batteries.

14 245. Rather than erring on the side of caution, Defendants created a new  
15 misleading and impossible target: 1,800 units in 2021.

16 Hughes stated:

17 If conditions improve, and the virus is not a issue for us or our suppliers  
18 going forward, then *we would anticipate producing 1,800 units in*  
19 *2021.*

20 Schrader added:

21 I think you could look at it as getting to *100 trucks per month by the -*  
22 *no little later than the first quarter of 2021* and then getting to *200*  
23 *trucks a month by no later than the second quarter of 2021.*

24 246. This new target was materially false and misleading because  
25 Defendants did not, in fact, anticipate producing 1,800 units in 2021. The new target  
26 was especially confusing as, at the time, there was no indication of when the  
27 COVID-19 pandemic, which Defendants blamed for their failure to meet their 2020

1 target, would be over. Workhorse announced no plans to improve their  
2 manufacturing capabilities, such as adding automation or new employees, except for  
3 reiterating that Workhorse would be “benefiting from [Hitachi’s] manufacturing  
4 expertise.” As discussed above, unless Workhorse is willing to spend capital to  
5 automate their facility, it is unclear how a paid consulting agreement with Hitachi  
6 could improve the Company’s virtually non-existent production capability.

7 247. Even if Workhorse were able to produce 1,800 trucks in 2020, as of  
8 November 2020, there was no customer to take delivery of the trucks. Defendant  
9 Schrader stated in the November 9, 2020 call that Workhorse’s backlog was 1700  
10 trucks, approximately 1,000 of which were designated for UPS. When an analyst  
11 asked if there was any update on when UPS would take delivery of the trucks,  
12 Hughes stated “UPS remains our premier customer... We are happy where we are  
13 with UPS. We will be delivering new vehicles.” As of November, 2020, UPS had  
14 neither requested delivery of the trucks nor given Workhorse any indication that it  
15 would be requesting the trucks in 2021 – or ever. Thus, Defendants knew or should  
16 have known that, even if Workhorse had the capacity to meet the 1800 truck target,  
17 at the time the target was set there would not have been any customers to take  
18 delivery of those vehicles.

19 248. When asked exactly how many vehicle had been delivered in the third  
20 quarter, Defendant Schrader replied: “**we had seven deliveries.**” Five of these trucks  
21 went to new customer Pritchard and two were delivered to distributor Ryder. The  
22 small sizes of these orders indicate the trucks were meant to be prototype units for  
23 testing and/or promotional purposes, not deliveries to end users. Zero vehicles were  
24 delivered to UPS or DHL.

25 249. Defendants further cushioned the blow of their missed target by  
26 announcing via a separate press release (not filed on SEC Form 8-K, despite the  
27 materiality of the announcement) that it had received a new order of 500 trucks from



1 Pritchard Companies. The press release did not indicate when or where Pritchard  
2 would take delivery of or pay for the trucks. In the earnings call, an analyst stated:

3 I'm a little confused about what Pritchard's role in all is. Are these  
4 orders spoken for with end users? Or are they just really an inventory  
5 stock up for Pritchard? And if they are a job to actually fund the end  
6 users from there?

7 To which Hughes replied:

8 So they will find their own end-user customers as they always do. I  
9 mean they already have a group. They sell many trucks to FedEx  
10 ground contractors as well as beyond that. So that 500 number is a  
11 pretty small number in their mind in terms of number of units to sell.

12 250. To this day, it is unclear how many of the 500 vehicles have already  
13 been sold to end customers, how many Pritchard intends to take delivery of in 2021,  
14 or whether Pritchard has experienced any user demand at all for the Workhorse  
15 trucks. When asked about this in the May 10, 2021 earnings call, Schrader simply  
16 stated, "So I don't think they want us to announce exactly kind of what they are  
17 doing with their customers and how they are approaching or how they are going to  
18 deliver them."

19 251. In his prepared remarks, Defendant Hughes stated:

20 I will provide a brief comment as we always do with respect to our  
21 ongoing participation in the U.S. Postal Service's next-generation  
22 delivery vehicle program. As many of you are well aware, under our  
23 NDA, Workhorse is only able to provide information, which is already  
24 in the public domain. As has been the case throughout this process, any  
25 further information or announcements will be issued by the U.S. Postal  
26 Service. We appreciate the continued interest we receive, and we will  
27

1 provide updates to the market as we are able. At this time, we do not  
2 have any updates to share.

3 252. This statement was misleading, as it implied that Workhorse was still  
4 in the running to secure all or part of the USPS NGDV contract. However,  
5 Defendants knew or should have known from the critical failures discovered in the  
6 testing of the Prefix prototype submitted by Workhorse, including the 2018 “roll-  
7 away incident” which landed a USPS test driver in the hospital, paired with  
8 Workhorse’s complete lack of capability to mass-produce trucks, that the Company  
9 would not be securing the contract. Moreover, the USPS had informed Workhorse  
10 approximately two months before, on September 3, 2020, of significant “questions  
11 and weaknesses” in a “List of Deficiencies,” that focused on the Technical  
12 Evaluation Factors considered by the USPS, which prompted a 99-page response  
13 from Workhorse, as well as follow-up discussions on October 8-9, 2020, and an  
14 additional request for information on October 21, 2020. Indeed, the USPS, who  
15 Workhorse acknowledged had been “policing” the Company’s public statements,  
16 cited securities fraud litigation in “castigating” Workhorse for making such  
17 statements to the public in reference to the contract.

18 253. On the same day, November 9, 2020, Workhorse filed its quarterly  
19 report on Form 10-Q for Q320. The Form 10-Q was signed by Defendants Hughes,  
20 Schrader, and Ackerman. The Q320 10-Q discussed Workhorse’s participation in  
21 the PPP, stating “[t]he Company received total proceeds of \$1.4 million from the  
22 PNC Note. In accordance with the requirements of the CARES Act, the Company  
23 will use proceeds from the PNC Note primarily for payroll costs.” However, CW2,  
24 an Executive Director of Human Resources from December 2019 through June  
25 2020, stated that the PPP funds were not primarily used for payroll costs, but to pay  
26 executive bonuses. In the Q320 10-Q revealed that “[a]s of October 30, 2020, the  
27 Company applied for forgiveness of the full amount due on the Note.”

1 254. Due to the positive announcements of the Pritchard agreement and the  
2 new 1,800 truck target for 2021, and defendants blaming COVID-19 for missing  
3 their 2020 guidance, the stock price continued to rise on November 9, 2020, rising  
4 from an opening price of \$17.88 per share to an intra-day high of \$20.08 per share.

5 **L. November 14, 2020**

6 255. On November 14, 2020, Schrader was interviewed again by Jack  
7 Spencer on his YouTube channel, Jack Spencer Investing<sup>21</sup>. There was no safe  
8 harbor or cautionary language included in this video, except for Spencer's statement  
9 that he is not a financial advisor. Spencer and Schrader discussed the November 9,  
10 2020 earnings call in further depth.

11 256. For example, Spencer asked:

12 In regards to those 1,800 vehicles for next year, I know you were  
13 saying, you know, hopefully you want to be at 100/month within the  
14 first quarter then 200 a month in the second quarter. Is that based off,  
15 you know, the existing backlog of orders we have, is that, you know,  
16 what we would deem to be best case scenario, or could that potentially  
17 go up if there are to be more orders?

18 Schrader replied:

19 Well let me say first, the goal was to get like 100/month in Q4, in this  
20 year, and I – I think, you know, we articulated both the battery  
21 constraint issue and the COVID issues we've had, and we're not going  
22 to do that, but we kind of view that more as *just a slight delay and*  
23 *hiccup* and it moved that more to the first quarter, so yeah, *by the end*  
24 *of the first quarter we'd like to have 100 per month*, 100 per month at  
25 least, and the same thing *by the end of the second quarter 200 per*  
26

27 <sup>21</sup> See <https://www.youtube.com/watch?v=TsEvrSQaBsE>

1           *month*... So right now the 1,800 is our goal for the year and let's, let's  
2           shoot for that, and uh, you know, if we get more orders that's beyond  
3           the 1,700 – because *if we did 1,800 that would satisfy the backlog,*  
4           *correct?* – but if we get more beyond that then certainly we'll look at  
5           ways to speed it up, or, you know, they can at least get on the list for  
6           2022.

7           257.       These statements were materially false and misleading when made  
8           because, contrary to Schrader's assertion, it was not the "slight hiccup" of 40% of  
9           Workhorse's workforce contracting/being exposed to a deadly virus that what  
10          caused Workhorse to miss its production targets. Workhorse missed the targets  
11          because the facility at which it planned to make the vehicles had no automation or  
12          assembly line, and workers could only assemble trucks one at a time on wooden  
13          benches. Despite repeated assertions by executives that they had a plan to increase  
14          production, Workhorse did not and never planned to spend any capital on  
15          modernizing the factory or adding automation. After missing the 2020 target,  
16          nothing changed. There was no reason for Defendant Schrader to believe that the  
17          Union City facility was capable of producing 100-200 trucks per month in 2020, or  
18          that there was any way to "speed up" production on top of that. Even if it was feasible  
19          for Workhorse to produce 1,800 trucks in 2021, at the time Schrader made this  
20          statement there would not have been a customer to take delivery of the majority of  
21          the vehicles, as UPS (purported buyer of 1,000 of the 1,700 trucks in the backlog)  
22          had neither requested delivery of the trucks nor given Workhorse any indication that  
23          it would be requesting the trucks in 2021. Schrader knew or should have known that  
24          these statements were materially false and misleading.

25          258.       Defendant Schrader also elaborated on the battery supply issues  
26          described by Hughes in the November 9, 2020 earnings call. He stated that around  
27          October 1, "our battery manufacturer basically said – you know – *we can't hit that*

1 *three to four hundred...*” Despite the fact that Schrader became aware of the battery  
2 issues around October 1, he still made two media appearances – one on October 15,  
3 2020 and one on October 29, 2020 – in which he told the public that Workhorse  
4 would be able to produce 300-400 trucks by the end of the quarter.

5 259. YouTube users reacted favorably to this video, which has nearly 32,000  
6 views and over 2,400 likes. User True Boxing Kings stated “I get a good vibe from  
7 this guy. I love when the ‘top dogs’ are accessible to the public. *I’m actually going*  
8 *to buy in at open today.*” User Star Bright commented, “I was going to sell my  
9 workhorse but now I am keeping it long run.” User Brian P stated “Definitely got  
10 the usps contract.” User Richard Metzger replied to this comment, “USPS definitely.  
11 100% of the award would be amazing!” Neither Defendant Schrader nor Spencer  
12 corrected the misunderstanding that Schrader’s demeanor indicated Workhorse  
13 would be getting the USPS, even though Spencer replied to numerous other  
14 comments on the video.

15 **M. January 27-28, 2021**

16 260. On January 25, 2021, just days after being sworn in, newly elected  
17 President Biden announced plans to replace the government’s vehicle fleet with  
18 electric vehicles assembled in the United States. President Biden did not say  
19 anything specifically about the USPS NGDV contract or endorse Workhorse electric  
20 vehicles specifically. However, after this announcement, Workhorse stock jumped  
21 from \$23.62 per share at open on January 25, 2021 to \$27.04 per share at open on  
22 January 26, 2021 – an increase of almost 14%.

23 261. In the following days, Defendant Schrader participated in several  
24 interviews in which he misled the market to believe that President Biden’s  
25 announcement was an indication that Workhorse would be awarded the USPS  
26  
27

1 NGDV contract. For example, on January 27, 2021, in an interview with Simranpal  
2 Singh on Singh’s YouTube channel<sup>22</sup>, Schrader stated:

3 It’s positive what we’re seeing from the administration. President  
4 Biden, you know, just five days into his presidency has kind of pushed  
5 electric vehicles for all government agencies.

6 Later, when discussing what the future would look like for Workhorse, Schrader  
7 stated he wanted Workhorse to have several divisions: “a drone division, a truck  
8 division, um, you know, *maybe a governmental division of some sort.*” YouTube  
9 user K.T. picked up on this phrase, assuming it was a hint about the status of the  
10 USPS contract, commenting: “Did anyone catch that? He said around 14:20, the  
11 different divisions ‘drone division, truck division, maybe a governmental division  
12 of some sort.’” Singh replied, “Yea I thought that was interesting too!”

13 262. These statements were materially false and misleading when made as  
14 Schrader knew or should have known from the 2018 “roll-away incident,” which  
15 landed a USPS test driver in the hospital, paired with Workhorse’s complete lack of  
16 capability to mass-produce trucks, that the Company would not be securing the  
17 contract. Moreover, the USPS had informed Workhorse approximately two months  
18 before, on September 3, 2020, of significant “questions and weaknesses” in a “List  
19 of Deficiencies,” that focused on the Technical Evaluation Factors considered by the  
20 USPS, which prompted a 99-page response from Workhorse, as well as follow-up  
21 discussions on October 8-9, 2020, and an additional request for information on  
22 October 21, 2020.

23 263. January 28, 2021, in an interview with Jack Spencer on Spencer’s  
24 YouTube channel<sup>23</sup>, Schrader stated:

25  
26 <sup>22</sup> See <https://www.youtube.com/watch?v=dUiv6-BC1J8>

27 <sup>23</sup> See <https://www.youtube.com/watch?v=rY7g15hOMrA>

1            *I think the President's announcement was huge*, uh, for several  
2 reasons, right, it's 1. supportive of the EV market. It's 2. All-American,  
3 like he said, uh, all-American product buy, and I think he also said a lot  
4 about small businesses and purchasing, whether it be parts or final  
5 products from small businesses too, so I think that's huge. *I think it's*  
6 *meaningful that he did this the fifth day into his presidency, right?*  
7 He did it quickly, he didn't really wait, and so I think that putting a  
8 move on that is very quick too.

9            264.            These statements were materially false and misleading when made as  
10 Schrader knew or should have known from the 2018 "roll-away incident,"  
11 Workhorse's complete lack of capability to mass-produce trucks, and the  
12 correspondence with the USPS in September – October, 2020 outlining Workhorse's  
13 deficiencies, that the Company would not be securing the contract.

14            265.            Furthermore, several commenters on the YouTube videos assumed,  
15 based on Defendant Schrader's statements, that he knew Workhorse would get the  
16 contract. For example, user Onat Ozyurt commented on the Spencer video "I am  
17 80% sure that Jack talked with him about Usps and now he knows the result. Jack  
18 wouldnt share this video that proudly if he didnt know that Wkhs didnt have the  
19 contract. ;) Jack?" Spencer never replied to this comment to correct the  
20 misunderstanding, even though he replied to numerous other comments on the video.

21            266.            When Spencer asked if there was any continuing effect of COVID-19  
22 at the Union City facility, Schrader stated there was not, but:

23            it cost us, basically, five weeks... So you know, it – it really just kind  
24 of *killed the fourth quarter*, you know... *I had a virus, I was out for*  
25 *four or five days*. Never had COVID, but you know, it just shows kind  
26 of how it is, you know, and I'm not, you know, I'm not meaningful for  
27



1 production so they can spare me... *but when it's production people*  
2 *out, you know, that's just the killer."*

3 267. Not only are these comments insensitive to the hundreds of thousands  
4 of Americans who died as a result of COVID-19– the real “killer” in this situation–  
5 they were materially false and misleading because it was not the fact that nearly 40%  
6 of Workhorse’s workforce contracted/were exposed to a deadly virus that caused  
7 Workhorse to miss its production targets. Workhorse missed the targets because the  
8 facility at which it planned to make the vehicles had no automation or assembly line,  
9 and workers could only assemble trucks one at a time on wooden benches.

10 268. Neither the Spencer interview nor the Singh interview contained any  
11 safe-harbor or other cautionary language, except for the YouTube personalities  
12 explaining that they were not financial advisors.

13 269. As a result of these positive statements, Workhorse stock continued to  
14 climb, closing at \$34.32 per share on January 29, 2021 – an increase of over \$10 per  
15 share in a one-week time period.

16 270. Despite Schrader’s positive outlook on the USPS NGDV contract in  
17 these interviews, on January 26, 2021, Hughes, Willison, and multiple board  
18 members *sold large quantities of their Workhorse stock*. Willison exercised an  
19 option to purchase 150,000 shares of Workhorse at \$0.932/share, then sold those  
20 150,000 shares for \$30/share for an overall profit of \$4,360,000. The 150,000 shares  
21 represented approximately 45% of the stock owned by Willison. Similarly Hughes  
22 exercised options to acquire 200,000 shares of Workhorse stock at \$5.28/share, then  
23 sold 100,000 shares for \$28/share and 100,000 shares for \$30/share, for a total one-  
24 day profit of \$4,744,000. The 200,000 shares represented approximately 40% of the  
25 stock owned by Hughes. Then, a few days later, on February 1, 2021, Hughes  
26 exercised options to acquire a further 25,000 shares of Workhorse stock at \$0.97 per  
27 share and sold them at \$35.97 per share, for a profit of \$875,000.

1           **N. February 24, 2021**

2           271.       On February 23, 2021, USPS announced via press release that it was  
3 rewarding the entirety of the 10-year, multi-billion dollar NGDV contract to  
4 Oshkosh Defense. The press release did not mention Workhorse at all. On this news,  
5 the price of Workhorse stock plummeted, from opening at \$28.29 per share all the  
6 way down to an intra-day low of \$12.50 per share, closing around \$16.43 per share.

7           272.       The next day, February 24, 2021, Workhorse published a press release  
8 (not filed on SEC Form 8-K, despite the materiality of the subject matter to  
9 investors), titled “Workhorse Provides Corporate Update.” The press release stated:

10           On February 23, 2021 the USPS issued a press release announcing that  
11 it has made an award under the NGDV contract to a competing  
12 finalist.... After being informed of the USPS decision, the Company  
13 has requested, pursuant to the bid process rules, additional information  
14 from the USPS and is awaiting a response at this time. *The Company*  
15 *intends to explore all avenues that are available to non-awarded*  
16 *finalists in a government bidding process.*

17           273.       These statements were materially false and misleading, as Defendants  
18 knew or should have known that Workhorse would not be securing the USPS NGDV  
19 contract. As demonstrated by the facts above, Workhorse was completely unable to  
20 mass-produce trucks, and therefore could never have met USPS’s need for 165,000  
21 trucks. Additionally, critical failures during the 2018 testing of the Prefix prototype  
22 submitted by Workhorse, including the “roll-away incident” which landed a USPS  
23 test driver in the hospital, indicated the submitted vehicle was not suitable for the  
24 contract and was unlikely to be chosen, which was supported by the correspondence  
25 with the USPS in September – October, 2020 outlining Workhorse’s deficiencies.

26           274.       While analysts following Workhorse were “shocked” at the  
27 announcement, they remained upbeat about Workhorse’s future prospects. For

1 example, Cowen Equity Research set a target price of \$18 per share. An analyst  
2 stated:

3 ***Our Reaction: Shocked.*** While we were not modeling success in the  
4 USPS, we had anticipated Workhorse would play a role, especially  
5 given the administration's stance around government fleets being zero  
6 emission... The loss of the contract ***does not impact our estimates*** as  
7 we had elected not to model the USPS NGDV program. . .

8 BTIG set their target price to \$24 per share, stating that their valuation included  
9 “\$20/share for the core business which includes the C-Series delivery truck (existing  
10 backlog of ~8,000 vehicles).” Likewise Colliers International stated : “**There is still**  
11 **a real company here.** As we do with all un-signed contracts, un-closed mergers,  
12 and so on, we never included the USPS contract in our WKHS model or valuation.  
13 As such, our estimates are not changing at this time.” (emphasis in original). Roth  
14 Capital Partners stated that, while they “view the unsuccessful Workhorse bid for  
15 the USPS NGDV as a surprise outcome” they were “[l]eaving forecasts unchanged  
16 at this time as the NGDV was never in our revenue or earnings forecast.”

17 275. Workhorse’s statements caused the stock price to rise slightly back up  
18 again; it opened at \$14.07 per share on February 24, 2021 and closed at \$15.13 per  
19 share, rising further to close at \$18.87 per share on February 25, 2021.

20 **O. March 1, 2020**

21 276. On March 1, 2020, Workhorse issued a Press Release filed on Form 8-  
22 K announcing their fourth quarter (“4Q:20”) and full year 2020 financial results. The  
23 press release did not state that Workhorse had an 1,800 truck target for 2021.  
24 However, Hughes is quoted as saying:

25 Our management team and expanded production workforce are  
26 continuing to collaborate closely with our strategic partners, Hitachi  
27 and Belcan. We are currently faced with various supply chain

1 challenges, both internal and external, in the ramp-up to our stretch  
2 production goal for 2021. While we focus on our near term targets we  
3 are preparing the Company for quality needed in the scaling forecasted  
4 in our multi-year growth plan.

5 277. In an earnings call on the same day, Hughes addressed the 1,800 truck  
6 target for 2021, stating, “we are facing various supply chain challenges, both internal  
7 and external, and the ramp up to that goal. While we believe this is a feasible goal,  
8 it’s a stretch.” Schrader elaborated, “we’re *trying to get to a target of three a day,*  
9 *sometime here at this month.* And then also, we kind of will continue to *keep out*  
10 *our 10 a day by the end of sometime in June or by the end of the second quarter.*  
11 So, that’s kind of our goal.”

12 278. These statements were materially false and misleading, as Defendants  
13 knew or should have known that their target of 1,800 trucks in 2021 was not “a  
14 stretch” – it was impossible. The Union City facility where the trucks were being  
15 produced continued to have no automation, no assembly lines, and the trucks  
16 continued to be assembled one at a time on wooden work benches. Workhorse  
17 announced no plans to spend additional capital to automate the Union City facility  
18 in order to get to the ten truck per day target proclaimed by Defendant Schrader.  
19 Defendants delivered a total of 18 trucks<sup>24</sup> in 2020 – a drastic miss from their  
20 misleadingly overambitious target of 300-400 trucks. Defendants made no changes  
21 or updates to their production facility, so, at the very least, they recklessly  
22 disregarded the truth when claiming that the facility could produce 1,800 trucks in  
23 2021.

24 279. Additionally, when asked about the status of the UPS order in the  
25 March 1, 2021 earnings call, Schrader stated “UPS, it’s a combination, obviously,

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26 <sup>24</sup> When an analyst asked: “can you disclose what the deliveries were for Q4 in aggregate?”  
27 Schrader replied: “Yes. We had I believe *seven deliveries in Q4.*”

1 we haven't got production now, but also is *when and where UPS would love to take*  
2 *their vehicles first*... ideally, I think their first trucks would ideally go to California.”

3 280. These statements were materially false and misleading because UPS  
4 had neither requested delivery of the trucks, to California or elsewhere, nor had UPS  
5 given Workhorse any indication that it would request the trucks in 2021 – or ever.

6 281. The March 1, 2021 press release also states that Workhorse “[r]eceived  
7 a purchase order for 6,320 C-Series all-electric delivery vehicles from Pride Group  
8 Enterprises” and that, as a result of this order, the backlog had grown to 8,000  
9 vehicles.

10 282. Similarly, in the earnings call, Hughes stated that the backlog had  
11 grown to 8,000 trucks after “Pride Group... placed a 6,320-unit order that includes  
12 both C-1000 and C-650 electric vehicles.”

13 283. However, these statements were materially false and misleading, as  
14 Workhorse itself admitted in a previous press release that the Pride order was  
15 “subject to various production and delivery conditions.” A reporter from automotive  
16 news site Freightwaves.com reached out to Workhorse management requesting  
17 information about these conditions but was never contacted back. The Pride Group  
18 did not create their own press release regarding the acquisition of the trucks, nor did  
19 it post Workhorse’s press release on its website, in fact, Workhorse is not mentioned  
20 anywhere on Pride’s website. Pride’s sales website, PrideTruckSales.com, only  
21 shows heavy trucks and transport trailers, and there is no information about how one  
22 could acquire a Workhorse last-mile delivery truck. These facts indicate that, similar  
23 to the UPS contract, there is no assurance Pride will take delivery of the full order  
24 of 6,000+ trucks. Workhorse management knew or should have known this and  
25 included appropriate cautionary language when making statements about the Pride  
26 Group order.

1 284. Defendants' upbeat assurances that production was continuing to ramp  
2 up, along with their statements regarding the Pride Group order, bolstered the price  
3 of the stock, which rose from \$15.95 per share at opening on March 1, 2021 to  
4 \$17.34 per share at closing, a rise of approximately 9%, on unusually heavy volume.

5 **LOSS CAUSATION**

6 285. During the Class Period, Defendants engaged in a scheme to defraud  
7 the market into believing Workhorse was a stable business with a steady backlog  
8 and mass production capability, and was a frontrunner for the USPS NGDV contract.  
9 Defendants also made a series of materially false and misleading statements  
10 regarding the status of Workhorse's business, including its backlog, production  
11 capabilities, and its potential to be awarded all or part of the USPS NGDV contract.  
12 This scheme and Defendants' misstatements artificially inflated and maintained the  
13 price of Workhorse's stock.

14 286. Plaintiffs and other members of the Class suffered economic losses  
15 when the truth was revealed, through a series of partial disclosures, that Workhorse  
16 would not be able to produce 300-400 vehicles in 2020 or 1800 vehicles in 2021 and  
17 that Workhorse would not be awarded any part of the USPS NGDV contract. When  
18 the truth was fully revealed, the artificial inflation was removed from the stock and  
19 investors were harmed.

20 287. As alleged herein, Defendants continually implied that Workhorse was  
21 a frontrunner for the USPS NGDV award, despite the facts: 1) Workhorse neither  
22 designed nor produced the prototype vehicle it submitted for USPS testing, and had  
23 neither the knowledge nor ability to mass produce the prototype vehicle; 2) The  
24 USPS had decided early on in the process that Workhorse would not be awarded the  
25 contract due to numerous critical failures during prototype testing, including an  
26 incident where the parking break on the prototype truck submitted by Workhorse  
27 failed, causing the truck to roll down a hill and seriously injure a USPS test driver;

1 3) USPS was concerned because Workhorse was a start-up, with no demonstrated  
2 ability to mass produce trucks; and 4) Workhorse's July, 2020 proposal contained  
3 multiple deficiencies, which Workhorse was informed of in September, 2020 but  
4 was not able to remedy.

5 288. Additionally, Defendants repeatedly stated, first, that Workhorse would  
6 be able to manufacture 300-400 trucks in 2020, and second, when it failed to make  
7 that target, that Workhorse would be able to manufacture 1,800 trucks in 2021.  
8 However, Workhorse's Union City, Indiana facility was understaffed and had no  
9 automation or production line. Workers at the facility assembled trucks one at a time  
10 of wooden benches. While Defendants attempted to blame their missed target on the  
11 COVID-19 pandemic, the truth is, without an injection of capital, the Union City  
12 facility would never be able to mass produce trucks to meet Workhorse's production  
13 targets.

14 289. Further, Defendants represented that Workhorse had a steady backlog,  
15 indicating that there was high demand for Workhorse electric trucks. However, each  
16 of the orders which made up the backlog came with significant conditions. The 1,000  
17 truck order from UPS, often touted by Defendants and considered by analysts to be  
18 the backbone of the Company, was entirely cancellable and contingent on UPS's  
19 request to take delivery of the trucks. In 2019, UPS announced it had partnered with  
20 Arrival, a rival electronic vehicle manufacturer. The 500 truck Pritchard order and  
21 6,300 truck Pride order were conditioned, among other factors, on undemonstrated  
22 customer demand. Nevertheless, Defendants insinuated that Workhorse's backlog  
23 gave the company legitimacy and stability.

24 290. The truth was first partially revealed on October 8, 2020, when Fuzzy  
25 Panda Research published a report prior to market open, entitled "The 'Brakes' Fall  
26 Off The USPS Story: Workhorse's USPS Bid has Numerous **Critical Failures.**"  
27 While Fuzzy Panda acknowledged that it carried a short position on Workhorse's



1 stock, the report revealed numerous true, non-public facts, that contradicted  
2 Defendants' statements, and partially revealed Defendants' scheme.

3 291. First, Fuzzy Panda revealed, through its own non-public conversations  
4 with sources, that VT Hackney dropped out of the NGDV bid and sold their rights  
5 to Workhorse because of, among other things, "Numerous Critical Failures" during  
6 the prototype testing, including motors breaking, safety belt problems, constant door  
7 problems, problems with the performance of the chassis, suspension problems, range  
8 problems, power problems, and "most notably," the "notorious parking brake failure  
9 resulting in a USPS employee being hospitalized." Moreover, Fuzzy Panda revealed  
10 that "Workhorse has a very strained relationship with the USPS," given that they  
11 failed their initial bid for failing to use the proper design software, and also "became  
12 increasingly strained from Workhorse 'not telling the post office the 100% truth'  
13 and 'misinforming [the USPS] over and over again," a fact later confirmed by  
14 Workhorse itself in its Fed. Claims Complaint. Indeed, just as Workhorse stated in  
15 the Complaint, Fuzzy Panda stated that "Workhorse was in fact eliminated from the  
16 process 'early on.'" Moreover, Fuzzy Panda revealed that Workhorse had taken out  
17 a PPP loan from the government and refused to return it, providing an additional  
18 reason the USPS would not award them the contract.

19 292. Second, Fuzzy Panda revealed that its investigators went to  
20 Workhorse's facilities in Union City, Indiana and Loveland, Ohio, and found "NO  
21 Active purchase orders being worked on," and that "[e]mployees told us that no  
22 purchase orders were currently in production for customers." The investigators  
23 found "NO Automation," consistent with CW reports, and that "All truck production  
24 and assembly occurs exclusively in Union City," and that it is done manually on  
25 wooden tables.

26 293. Third, Fuzzy Panda partially revealed the fictitious nature of the UPS  
27 "backlog" of orders. Fuzzy Panda's investigator visited the facility to find that the

1 only four UPS trucks that had been produced were located behind dumpsters and an  
2 employee told them they were merely “Show-Units” or “prototypes.”

3 294. Fourth, Fuzzy Panda revealed that Workhorse had a history of  
4 connections to illegal paid stock promoters who were hired to “publish dozens of  
5 bullish articles on its clients, which appeared to be independent research pieces.”

6 295. While the Fuzzy Panda Report’s revelations had an immediate negative  
7 impact on Workhorse’s stock, the Company’s stock price bounced back as news and  
8 media outlets discounted the report as influenced by Fuzzy Panda’s short position.  
9 For example, Bloomberg published an article that same day, entitled “Workhorse  
10 Shares Shrug Off Short-Seller Report’s Allegations,” reporting on the Fuzzy Panda  
11 piece, attributing a sharp price decline in Workhorse’s stock to the revelations in the  
12 report, stating “[s]hares of Workhorse declined 1.2% to \$23.91 at 1:08 p.m. in New  
13 York after paring an earlier decline of as much as 6.1%. The stock had declined as  
14 much as 9% in premarket trading.” Yahoo Finance published a similar piece that  
15 day, entitled “Workhorse Short Seller Says USPS Bid Unlikely to Pan Out,” noting  
16 that “Shares of Workhorse were down in premarket trading Thursday as the report  
17 was released,” and that “[t]he stock was trading down 2.27% at \$23.65 at the time  
18 of publication.”

19 296. The next day, Roth Capital, who advocated a bullish position on  
20 Workhorse, issued a report that reversed the losses, stating that “We expect  
21 Workhorse to be the recipient of the Post Office’s \$8.1bn NGDV contract, where a  
22 decision is due Tuesday, October 13<sup>th</sup>.” News outlets such as Barron’s and Motley  
23 Fool attributed the “almost 13%” increase on October 13 to the Roth Capital report.

24 297. After the October 8, 2020 partial revelation, Defendants continued their  
25 scheme to inflate Workhorse’s stock price for personal gain (including numerous  
26 stock sales between January 26-February 1, 2020), and continued to issue false and  
27 misleading statements in furtherance of that scheme.

1 298. The truth was further partially revealed on February 23, 2021, when the  
2 USPS announced Workhorse would not be awarded any part of the NGDV Contract.  
3 The failure to any portion of the Contract, despite President Biden’s stated goal to  
4 electrify the federal government’s fleet of vehicles, partially revealed to the market  
5 that, contrary to Defendants’ representations and continued participation in the  
6 bidding process, Workhorse was not a viable contender for this contract, did not  
7 have the capabilities to meet the government’s requirements, and confirmed  
8 assertions in the Fuzzy Panda report that USPS had grave concerns with Workhorse  
9 because they could have awarded at least a portion of the contract to the Company,  
10 but did not.

11 299. Stock analysts echoed this sentiment. For example, Wolfe Research  
12 published a report on February 24, 2021, entitled “How the Postal Service Loss  
13 Changes the Story,” noting that “[g]iven recent indications from the Postal Service  
14 that the contract could be split between multiple OEMs, and given President Biden’s  
15 new EV mandate for the Federal Fleet, investors were clearly surprised by this  
16 outcome. This will likely raise questions about underlying issues with WKHS’s  
17 product/technology.” The research note also displayed new skepticism about the  
18 Company’s representations regarding its manufacturing capabilities, noting “WKHS  
19 does not have any track record of manufacturing at scale....this remains a key risk.”

20 300. Workhorse’s stock plummeted upon the revelations from \$31.34/share  
21 at close on February 22, to \$16.47/share close on February 23, a decline of over 47%.

22 301. Even though investors were shocked by the USPS contract outcome and  
23 began questioning Defendants’ representations regarding Workhorse’s capabilities,  
24 the Company’s stock price remained artificially buoyed, as market participants such  
25 as BTIG, Colliers International, and Roth Capital continued to emphasize the  
26 strength of Workhorse’s fictitious “backlog” of vehicle orders, believing  
27 (erroneously) that “There is still a real company here.”

1 302. Defendants maintained Workhorse’s artificially inflated stock price by  
2 reinforcing the market’s erroneous perception and maintaining their scheme by  
3 continuing to issue false and misleading statements regarding the Company’s  
4 backlog and manufacturing capabilities, as well as renewed guidance to deliver  
5 1,800 trucks in 2021.

6 303. Finally, on May 10, 2021, Defendants revealed Workhorse had only  
7 delivered 6 trucks in 1Q:21 and had only produced 38 trucks total year to date,  
8 making it clear to the market that the Company would not be able to hit its 1,800  
9 truck target for 2021, that Workhorse did not have the manufacturing capabilities or  
10 purchase orders it touted and that their excuses for not producing more trucks over  
11 the course of the Class Period were a scheme to keep the Company’s stock price  
12 inflated.

13 304. Numerous analysts reduced their price targets for Workhorse, with  
14 Colliers issuing a report the next day, pointedly stating “Still Waiting for that Elusive  
15 Ramp-Up.” Once again, Workhorse stock fell precipitously when the truth was  
16 revealed, falling to \$8.20 at close on May 10, 2021, a 15% decrease from the prior  
17 trading day close of \$9.64.

18 305. Defendants’ misstatements caused the price of the stock to rise from  
19 \$2.64 per share on March 10, 2020 to a high of \$42.96 per share on February 4,  
20 2021, just days before the announcement of the USPS NGDV contract awardee. By  
21 May 10, 2021, the end of the Class Period, when true, previously concealed, adverse  
22 facts were revealed and the artificial inflation was removed, the stock price closed  
23 at a mere \$8.20/share.

24 306. The timing and magnitude of Workhorse’s stock price rise and decline,  
25 as well as the timing of Defendants’ stock sales, negates any inference that the loss  
26 suffered by Plaintiffs and the other Class members was caused by changes in market  
27 conditions, macroeconomic or industry factors or Company-specific facts unrelated

1 to Defendants' fraudulent conduct. The economic loss suffered by Plaintiffs and the  
2 other members of the Class was a direct result of Defendants' fraudulent scheme to  
3 artificially inflate the price of Workhorse's stock. The economic loss, i.e., damages  
4 suffered by Plaintiffs and other members of the Class, was a direct result of  
5 Defendants' misrepresentations and omissions being revealed to investors, and the  
6 subsequent significant decline in the value of the Company's shares was also the  
7 direct result of Defendants' prior misstatements and omissions being revealed.

8 **DEFENDANTS ACTED WITH SCIENTER**

9 307. The Individual Defendants' suspiciously timed stock sales of over  
10 \$21.5 million dollars while in possession of material inside information about  
11 Workhorse, performance bonuses for Defendants Hughes and Willison tied to the  
12 Company's stock price and the number of trucks delivered and produced, in  
13 conjunction with corroborating evidence, including CW statements, demonstrating  
14 that Workhorse did not have the capability to produce or deliver the number of trucks  
15 it was touting and that Defendants were aware that the NGDV contract would not be  
16 awarded to Workhorse, support the inference that Defendants acted with scienter, in  
17 that each Individual Defendant knew and/or recklessly disregarded facts available to  
18 them that demonstrated that the public documents and statements issued or  
19 disseminated by them individually or in the name of the Company were materially  
20 false and misleading.

21 **A. Insider Trading by the Individual Defendants Supports a Strong**  
22 **Inference of Scienter**

23 308. During the Class Period, the Individual Defendants sold massive  
24 amounts of their personal holdings of Workhorse stock while in possession of  
25 material, non-public information. Indeed, the majority of the Individual Defendants'  
26 insider sales took place between September 14, 2020 to February 1, 2021, when, in  
27 addition to possessing material non-public information regarding the Company's

1 manufacturing capabilities, the fictitious “backlog” of orders, and the “roll-away”  
2 incident, Defendants had already received notice from the USPS on September 3,  
3 2020, outlining the major deficiencies in their bid proposal. Furthermore, the  
4 Individual Defendants’ stock sales were not only suspiciously large in quantity, but  
5 were suspiciously timed to take advantage of spikes in the stock price prior to  
6 anticipated negative news, and inconsistent with their pre- and post-Class Period  
7 trading practices, thereby supporting a strong inference of scienter.

8 309. Collectively, the Individual Defendants sold over 850,000 shares of  
9 Workhorse stock over the course of the Class Period for proceeds of over \$21.5  
10 million.<sup>25</sup> Yet, in the nearly three months since the Class Period ended and the  
11 artificial inflation was removed from Workhorse’s common stock, the only time any  
12 of the Individual Defendants sold any other shares was when the stock price rose  
13 above \$15/share after Workhorse stock was targeted by the Reddit community.  
14 Likewise, the Individual Defendants sold no Workhorse common stock at any time  
15 before the start of the Class Period.

16 **B. The Amount and Percentage of Shares the Individual Defendants Sold**  
17 **During the Class Period Was Extraordinary and Inconsistent with Pre-**  
18 **and Post-Class Period Trading Practices**

19 310. To evaluate the Individual Defendants’ trading activity, Plaintiffs used  
20 the publicly-available trading data that is required to be reported to the SEC on Form  
21 4s. Plaintiffs analyzed the trading by the Individual Defendants that occurred during  
22 the Class Period, as well as their transactions both before and after the Class Period  
23 (excluding the Individual Defendants’ recent trades on July 1, 2021 that were plainly  
24 timed to take advantage of the surge in Workhorse’s stock price as a result of Reddit

25 \_\_\_\_\_  
26 <sup>25</sup> During the Class Period, Hughes sold 615,195 Workhorse shares for proceeds of \$15,274,479;  
27 Ackerson sold 39,850 Workhorse shares for proceeds of \$965,508; Willison sold 176,023  
28 Workhorse shares for proceeds of \$4,942,548; and Schrader sold 19,589 Workhorse shares for  
proceeds of \$417,233.



1 trading).<sup>26</sup> The Workhorse Form 4s relating to sales of stock by the Individual  
2 Defendants are incorporated herein by reference.

3 311. Plaintiffs calculated the total sales by the Individual Defendants,  
4 together with the cash proceeds from such sales, during and outside the Class Period.  
5 Those figures were then compared to identify whether the Individual Defendants'  
6 sales during the Class Period were consistent with their sales outside the Class  
7 Period.

8 312. During the Class Period, Defendant Ackerson sold 39,850 shares of  
9 Workhorse stock for \$965,508, which represented between 38% (based on the  
10 beginning of the Class Period) and 34% (based on the end of the Class Period) of the  
11 total shares he had available.<sup>27</sup> Outside the Class Period, excluding his suspicious  
12 July 1, 2021 Reddit-related insider trading, Ackerson sold 0 shares.

13 313. During the Class Period, Defendant Hughes sold 615,195 shares of  
14 Workhorse for \$15,274,479, representing between 257% (based on the beginning of  
15 the Class Period) and 162 % (based on the end of the Class Period) of the total shares  
16 he had available.<sup>28</sup> Outside the Class Period, excluding his suspicious July 1, 2021  
17 Reddit-related insider trading, Hughes sold 0 shares.

18 314. Similarly, during the Class Period, Defendant Schrader sold 19,589  
19 Workhorse shares for \$ 417,233, representing between 19% (based on the beginning  
20

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21 <sup>26</sup> See June 29, 2021 Yahoo Finance article entitled "Workhorse Jumps As Reddit Gang is Talking  
22 About it Again," available at <https://finance.yahoo.com/news/workhorse-jumps-reddit-gang-talking-093509708.html>

23 <sup>27</sup> Ackerson held 104,166 shares at the beginning of the Class Period and 117,163 shares at the end  
24 of the Class Period. Ackerson sold 39,850 shares, and acquired 52,847 shares, during the Class  
25 Period. Ackerson's sale of 39,850 shares corresponds to 38% (39,850 / 104,166) of his holdings  
26 at the beginning of the Class Period, and 34% (39,850 / 117,163) of his holdings at the end of the  
27 Class Period.

28 <sup>28</sup> Hughes held 239,044 shares at the beginning of the Class Period and 379,569 shares at the end  
of the Class Period. Hughes sold 615,195 shares, and acquired 772,974 shares, during the Class  
Period. Hughes' sale of 615,195 shares corresponds to 257% (615,195 / 239,044) of his holdings  
at the beginning of the Class Period, and 162% (615,195 / 379,569) of his holdings at the end of  
the Class Period.



1 of the Class Period) and 10% (based on the end of the Class Period) of the total  
2 shares he had available.<sup>29</sup> Outside the Class Period, excluding his suspicious July 1,  
3 2021 Reddit-related insider trading, Schrader sold 0 shares.

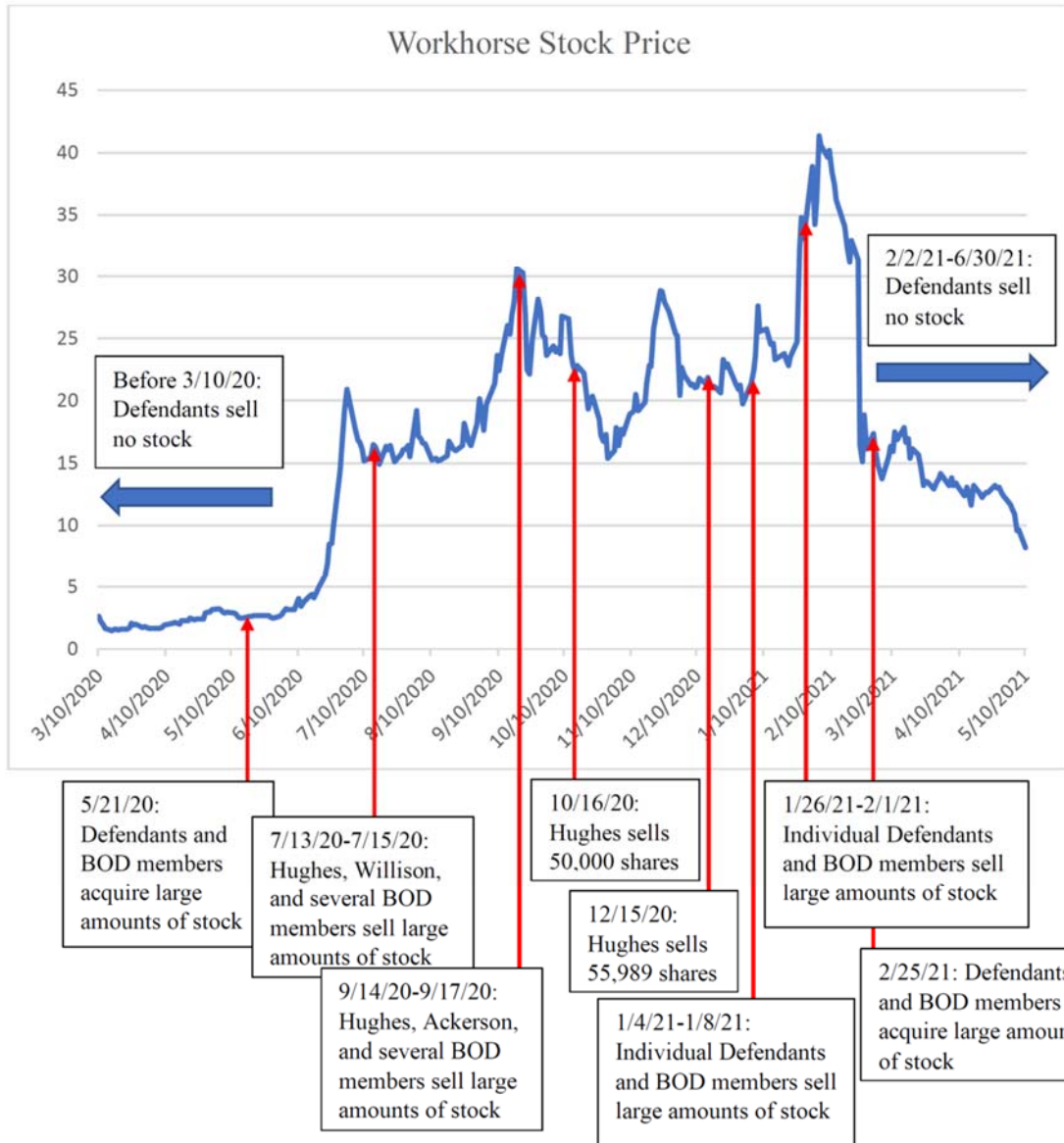
4 315. And Willison sold 176,023 Workhorse shares for \$4,942,548 during the  
5 Class Period, representing between 147% (based on the beginning of the Class  
6 Period) and 92% (based on the end of the Class Period) of the total shares he had  
7 available.<sup>30</sup> Outside the Class Period, excluding his suspicious July 1, 2021 Reddit-  
8 related insider trading, Willison sold 0 shares.

9 316. These analyses reveal that the Individual Defendants' Class Period  
10 sales of Workhorse stock were not only large in absolute terms, but also inconsistent  
11 with the Individual Defendants' selling activity outside of the Class Period. Indeed,  
12 all of the Individual Defendants' sales took place during a short window when the  
13 stock price was over \$15/share, and none of the individual defendants sold any stock  
14 from the time the price crashed in late February 2021 to the end of the Class Period.  
15 In fact, Defendants' only stock sales since February, 2021 have been on a single day,  
16 July 1, 2021, when the stock price rose due to the Reddit community targeting  
17 Workhorse.

18  
19  
20  
21  
22 <sup>29</sup> Schrader held 102,120 shares at the beginning of the Class Period and 191,786 shares at the end  
23 of the Class Period. Schrader sold 19,589 shares, and acquired 109,225 shares, during the Class  
24 Period. Schrader's sale of 19,589 shares corresponds to 19% (19,589 / 102,120) of his holdings at  
the beginning of the Class Period, and 10% (19,589 / 191,786) of his holdings at the end of the  
Class Period.

25 <sup>30</sup> Willison held 119,522 shares at the beginning of the Class Period and 189,499 shares at the end  
26 of the Class Period. Willison sold 176,023 shares, and acquired 254,734 shares, during the Class  
27 Period. Willison's sale of 176,012 shares corresponds to 147% (176,023 / 119,522) of his holdings  
at the beginning of the Class Period, and 92% (176,023 / 189,499) of his holdings at the end of the  
Class Period.

317. The chart below shows the price of Workhorse’s stock compared with the timing of Defendants’ stock sales during the Class Period.



**C. Workhorse’s Executive Compensation Plan Provided Substantial Additional Incentives for Defendants Hughes and Willison to Mislead Investors and Withhold Material Adverse Information**

318. Defendants Hughes and Willison’s compensation structure emphasizes incentives-based payouts. Total compensation consists of three components: 1) base

1 salary; 2) incentives-based cash bonuses; and 3) long-term incentives-based equity  
2 compensation.

3 319. The incentives-based cash bonuses are awarded based on the following  
4 quantitative and qualitative performance metrics: (i) 30% based on adjusted  
5 EBITDA and Gross Margin; (ii) 40% based on “individual performance objectives”;  
6 (iii) 25% based on targets for trucks produced and delivered; and (iv) 5% based on  
7 the Company’s safety record. (2020 10-K at 46.) The purpose of the long-term  
8 incentive program is “to both motivate executive performance and retention, as well  
9 as to align executive officer performance to shareholder value creation.” (*Id.* at 47.)

10 320. For example, in 2020, Defendant Hughes’ salary was \$475,000 and  
11 Defendant Willison’s salary was \$300,000. Hughes also received a cash bonus of  
12 \$384,750 and Willison received a cash bonus of \$67,500.<sup>31</sup> (2020 10-K at 46-49.)  
13 Hughes and Willison thus received incentive-based cash bonuses of 81% and 22.5%  
14 of what they made, respectively, in salary for that year. In addition, pursuant to the  
15 long-term incentive grant program, Hughes received a grant of 179,245 restricted  
16 shares with a grant date fair value of \$475,000, and Willison received a grant of  
17 84,906 restricted shares with a grant date fair value of \$225,000.<sup>32</sup> Hughes and  
18 Willison thus received incentive-based stock bonuses of 100% and 75% of what they  
19 made, respectively, in salary for that year. In total, Hughes and Willison received  
20 cash and stock bonuses equivalent to 191% and 97.5% of what they made,  
21

22 <sup>31</sup> While performance for adjusted EBITDA, gross margin, and trucks delivered and produced fell  
23 below threshold levels, the Compensation Committee determined that because the “executives  
24 performed at a very high level” and in light of “how well the stock performed in 2020,” the  
25 individual performance component should pay at or above target. 2020 10-K at 47. Thus, Hughes  
26 received a 2020 cash bonus of 81% of his Target Bonus (which was set at 100% of his base salary  
27 of \$475,000), and Willison received a 2020 cash bonus of 45% of his Target Bonus (which was  
28 set at 50% of his base salary of \$300,000). (2020 10-K at 46-47.)

<sup>32</sup> Hughes’ target LTI award was set at 100% of his base salary of \$475,000, and Willison’s target  
LTI award was set at 75% of his base salary of \$300,000. For 2020, they both received their target  
LTI awards. (2020 10-K at 46.)

1 respectively, in salary for that year, for total compensation for Hughes of \$1.33  
2 million, and Willison of \$626,250.

3 321. Hughes and Willison’s bonuses incentivized them to make false and  
4 misleading statements about Workhorse’s production and delivery capabilities.  
5 While Hughes and Willison’s bonuses (and salaries) paled in comparison to the  
6 millions of dollars in insider sales proceeds they improperly obtained during the  
7 Class Period, their performance bonuses tied to the Company’s stock price and  
8 number of trucks delivered and produced – along with corroborating evidence,  
9 including CW statements, demonstrating that Workhorse did not have the capability  
10 to produce or deliver the number of trucks it represented it did, and that Defendants  
11 were aware that the NGDV contract would not be awarded to Workhorse – provide  
12 substantial indicia of scienter.

13 322. Additionally, despite falsely representing throughout the Class Period  
14 that “the Company will use proceeds from the PNC Note primarily for payroll costs,”  
15 Defendants used those proceeds to pay executive bonuses, according to CW2. That  
16 Defendants would defraud the government to enrich themselves – and then issue  
17 materially false and misleading statements about it in their financial filings – further  
18 supports the inference of scienter.

19 **D. Additional Indicia of Scienter**

20 323. Throughout the Class Period, Defendants purported to have extensive  
21 knowledge about the finances and operations of the Company. Defendants Hughes,  
22 Schrader, and Willison participated in all earnings calls during the Class Period,  
23 providing both prepared remarks and detailed answers to questions posed by analysts  
24 related to, among other things, the Company’s manufacturing capabilities. Hughes  
25 provided lengthy quotations for every Workhorse press release described herein.  
26 Hughes and Willison have a long history with the Company and were involved in  
27 the pre-Class Period events that gave rise to many of the facts alleged herein.

1 Willison was the Chief Engineer for the USPS effort back in the prototype phase and  
2 Hughes was listed as the USPS main point of contact for the initial proposal  
3 submitted by AMP Holdings. Additionally, Hughes, in his capacity as COO, signed  
4 the 2018 agreement with UPS.

5 324. Defendants also had a history of partnering with companies such as  
6 CSIR Group, who was charged with fraud by the SEC in a “fraudulent stock  
7 promotion scheme” “hir[ing] writers...to publish dozens of bullish articles on its  
8 clients, which appeared to be independent research pieces,” for “investor relations”  
9 services. This history supports an inference of scienter, and supports Plaintiffs’  
10 allegations that, in furtherance of their scheme, Defendants used appearances in  
11 Youtube video interviews with rabid Workhorse supporters in a grassroots campaign  
12 to encourage the dissemination of misinformation related to the USPS NGDV  
13 Contract among the individual investor community. Such tactics bear striking  
14 resemblance to former Workhorse CEO Steve Burns’ promotion of Lordstown, who  
15 is also under investigation for securities fraud related to similar overstated claims  
16 about truck orders.

17 325. Defendants Hughes, Schrader, and Ackerson each signed all of the 10  
18 K and 10-Q filings throughout the Class Period. Defendants Hughes and Schrader  
19 each signed certifications, pursuant to the Sarbanes-Oxley Act of 2002, attached to  
20 the 10-K and 10-Q filings. These certifications stated that Hughes and Schrader  
21 reviewed the financial statements; that to the best of their knowledge the reports did  
22 “not contain any untrue statement of a material fact or omit to state a material fact  
23 necessary to make the statements made, in light of the circumstances under which  
24 such statements were made, not misleading with respect to the period covered by  
25 this report,” that the financial statements “fairly present in all material respects the  
26 financial condition, results of operations and cash flows of the registrant,” and that  
27 the financial statements disclosed “[a]ll significant deficiencies and material

1 weaknesses in the design or operation of internal controls over financial reporting”  
2 and “[a]ny fraud, whether or not material, that involves management or other  
3 employees who have a significant role in the registrant's internal controls over  
4 financial reporting.”

5 326. Workhorse was a small company, employing at its largest less than 200  
6 employees. In such companies, executives, such as the Individual Defendants, tend  
7 to be very “hands-on.” This is supported by the fact that both CW1 and CW2  
8 described meeting with Hughes and Schrader personally on at least one occasion.

9 **PSLRA STATUTORY SAFE HARBOR DOES NOT APPLY**

10 327. The statutory safe harbor provided for forward-looking statements  
11 under certain circumstances does not apply to any of the allegedly materially false  
12 and misleading statements pleaded in this complaint. Many of the specific statements  
13 pleaded herein, including but not limited to all statements made by Defendant  
14 Schrader in YouTube interviews, were not identified as “forward-looking  
15 statements” when made. To the extent there were any forward-looking statements,  
16 there were no meaningful cautionary statements identifying important factors that  
17 could cause actual results to differ materially from those in the purportedly forward-  
18 looking statements.

19 328. Alternatively, to the extent that the statutory safe harbor does apply to  
20 any forward-looking statements pleaded herein, Defendants are liable for those false  
21 forward-looking statements because at the time each of those forward-looking  
22 statements was made, the particular speaker knew that the particular forward-  
23 looking statement was false, and/or the forward-looking statement was authorized  
24 and/or approved by an executive officer of Workhorse who knew that those  
25 statements were false when made.



**CLASS ACTION ALLEGATIONS**

1  
2 329. Plaintiffs bring this action as a class action pursuant to Federal Rule of  
3 Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons other  
4 than Defendants who purchased publicly traded Workhorse securities on the  
5 NASDAQ during the Class Period, and who were damaged thereby (the “Class”).  
6 Excluded from the Class are Defendants, the officers and directors of Workhorse  
7 and its subsidiaries, members of the Individual Defendants’ immediate families and  
8 their legal representatives, heirs, successors or assigns and any entity in which  
9 Defendants have or had a controlling interest.

10 330. The members of the Class are so numerous that joinder of all members  
11 is impracticable. Throughout the Class Period, Workhorse securities were actively  
12 traded on the NASDAQ. While the exact number of Class members is unknown to  
13 Plaintiffs at this time and can be ascertained only through appropriate discovery,  
14 Plaintiffs believe that there are hundreds, if not thousands of members in the  
15 proposed Class.

16 331. Plaintiffs’ claims are typical of the claims of the members of the Class  
17 as all members of the Class are similarly affected by Defendants’ wrongful conduct  
18 in violation of federal law that is complained of herein.

19 332. Plaintiffs will fairly and adequately protect the interests of the members  
20 of the Class and has retained counsel competent and experienced in class and  
21 securities litigation. Plaintiffs have no interests antagonistic to or in conflict with  
22 those of the Class.

23 333. Common questions of law and fact exist as to all members of the Class  
24 and predominate over any questions solely affecting individual members of the  
25 Class. Among the questions of law and fact common to the Class are:

- 26 a) whether the Exchange Act was violated by Defendants’ acts as alleged  
27 herein;



- b) whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the financial condition and business of the Company;
- c) whether Defendants' public statements to the investing public during the Class Period omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- d) whether the Defendants caused the Company to issue materially false and misleading filings during the Class Period;
- e) whether Defendants acted knowingly or recklessly in issuing materially false and misleading filings;
- f) whether the prices of Workhorse securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- g) whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

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

335. Plaintiffs will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- a) Workhorse shares met the requirements for listing, and were listed and actively traded on the NASDAQ, an efficient market;
- b) As a public issuer, the Company filed periodic public reports;

- c) Workhorse regularly communicated with public investors via established market communication mechanisms, including through the regular dissemination of press releases via major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;
- d) Workhorse's securities were liquid and traded with moderate to heavy volume during the Class Period; and
- e) The Company was followed by a number of securities analysts employed by major brokerage firms who wrote reports that were widely distributed and publicly available.

336. Based on the foregoing, the market for Workhorse securities promptly digested current information regarding the Company from all publicly available sources and reflected such information in the prices of the securities, and Plaintiffs and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

337. Alternatively, Plaintiffs and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information as detailed above.

**COUNT I**

**For Violations of Section 10(b) of the Exchange Act**

**and Rule 10b-5(b) Promulgated Thereunder**

**Against All Defendants**

338. Plaintiffs repeat and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

1 339. During the Class Period, Defendants, individually and in concert,  
2 directly or indirectly, violated Rule 10b-5(b) in that they disseminated or approved  
3 the false statements specified above, which they knew or deliberately disregarded  
4 were misleading in that they contained misrepresentations and failed to disclose  
5 material facts necessary in order to make the statements made, in light of the  
6 circumstances under which they were made, not misleading.

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

18 341. Individual Defendants, who are or were the senior officers and/or  
19 directors of the Company, had actual knowledge of the material omissions and/or  
20 the falsity of the material statements set forth above, and intended to deceive  
21 Plaintiffs and the other members of the Class, or, in the alternative, acted with  
22 reckless disregard for the truth when they failed to ascertain and disclose the true  
23 facts in the statements made by them or other Workhorse personnel to members of  
24 the investing public, including Plaintiffs and the Class.

25 342. As a result of the foregoing, the market price of Workhorse securities  
26 was artificially inflated during the Class Period. Plaintiffs and the other members of  
27 the Class relied on the statements described above and/or the integrity of the market  
28

1 price of Workhorse securities during the Class Period in purchasing Workhorse  
2 securities at prices that were artificially inflated as a result of Defendants' false and  
3 misleading statements.

4 343. Had Plaintiffs and the other members of the Class been aware that the  
5 market price of Workhorse's securities had been artificially and falsely inflated by  
6 Defendants' misleading statements and by the material adverse information which  
7 Defendants did not disclose, they would not have purchased Workhorse's securities  
8 at the artificially inflated prices that they did, or at all.

9 344. As a result of the wrongful conduct alleged herein, Plaintiffs and other  
10 members of the Class have suffered damages in an amount to be established at trial.

11 345. By reason of the foregoing, Defendants have violated Section 10(b) of  
12 the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the Plaintiffs  
13 and the other members of the Class for substantial damages which they suffered in  
14 connection with their purchase of Workhorse's securities during the Class Period.

15 **COUNT II**

16 **For Violations of Section 10(b) of the Exchange Act**  
17 **and Rule 10b-5(a) & (c) Promulgated Thereunder**  
18 **Against All Defendants**

19 346. Plaintiffs repeat and realleges each and every allegation contained in  
20 the foregoing paragraphs as if fully set forth herein.

21 347. During the Class Period, Defendants violated Rules 10b-5(a) and (c) in  
22 that they employed devices, schemes and artifices to defraud and engaged in acts,  
23 practices and a course of business that operated as a fraud or deceit upon Lead  
24 Plaintiffs and others similarly situated in connection with their purchases of  
25 Workhorse securities during the Class Period as alleged herein.

26 348. During the Class Period, Defendants participated in a scheme and  
27 course of conduct, which included, but was not reliant upon, the preparation of

1 and/or disseminated or approved the false statements specified above, and that  
2 Defendants knew or deliberately disregarded were misleading in that they contained  
3 misrepresentations and failed to disclose material facts necessary in order to make  
4 the statements made, in light of the circumstances under which they were made, not  
5 misleading.

6 349. Defendants individually and in concert, directly and indirectly, by the  
7 use, means or instrumentalities of interstate commerce and/or the mails, engaged and  
8 participated in a continuous course of conduct to conceal the truth and/or adverse  
9 material information about the business practices, operations and financial position  
10 of Workhorse as specified herein.

11 350. Defendants acted with scienter in that they participated in this scheme  
12 knowing or with deliberate recklessness that it would artificially inflate Workhorse's  
13 stock price; that the public documents and statements issued or disseminated in the  
14 name of the Company were materially false and misleading; knew that such  
15 statements or documents would be issued or disseminated to the investing public;  
16 and knowingly and substantially participated, or acquiesced in the issuance or  
17 dissemination of such statements or documents as primary violations of the  
18 securities laws. These Defendants by virtue of their receipt of information reflecting  
19 the true facts of the Company, their control over, and/or receipt and/or modification  
20 of Workhorse's allegedly materially misleading statements, and/or their associations  
21 with the Company which made them privy to confidential proprietary information  
22 concerning the Company, participated in the fraudulent scheme alleged herein.

23 351. Individual Defendants, who are or were the senior officers and/or  
24 directors of the Company, had actual knowledge of the scheme, material omissions  
25 and/or the falsity of the material statements set forth above, and intended to deceive  
26 Plaintiffs and the other members of the Class, or, in the alternative, acted with  
27 reckless disregard for the truth when they failed to ascertain and disclose the true

1 facts in the statements made by them or other Workhorse personnel to members of  
2 the investing public, including Plaintiffs and the Class.

3 352. As a result of the foregoing, the market price of Workhorse securities  
4 was artificially inflated during the Class Period. Plaintiffs and the other members of  
5 the Class relied on the statements described above and/or the integrity of the market  
6 price of Workhorse securities during the Class Period in purchasing Workhorse  
7 securities at prices that were artificially inflated as a result of Defendants' scheme  
8 and false and misleading statements and omissions.

9 353. Had Plaintiffs and the other members of the Class been aware that the  
10 market price of Workhorse's securities had been artificially and falsely inflated by  
11 Defendants' scheme and by the material adverse information which Defendants did  
12 not disclose, they would not have purchased Workhorse's securities at the artificially  
13 inflated prices that they did, or at all.

14 354. As a result of the wrongful conduct alleged herein, Plaintiffs and other  
15 members of the Class have suffered damages in an amount to be established at trial.

16 355. By reason of the foregoing, Defendants have violated Section 10(b) of  
17 the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to Plaintiffs and  
18 the other members of the Class for substantial damages which they suffered in  
19 connection with their purchase of Workhorse's securities during the Class Period.

### 20 **COUNT III**

#### 21 **Violations of Section 20(a) of the Exchange Act**

#### 22 **Against the Individual Defendants**

23 356. Plaintiffs repeat and realleges each and every allegation contained in  
24 the foregoing paragraphs as if fully set forth herein.

25 357. During the Class Period, the Individual Defendants participated in the  
26 operation and management of the Company, and conducted and participated, directly  
27 and indirectly, in the conduct of Workhorse's business affairs. Because of their

1 senior positions, they knew the adverse non-public information about the  
2 Company's false financial statements.

3 358. As officers of a publicly owned company, the Individual Defendants  
4 had a duty to disseminate accurate and truthful information with respect to  
5 Workhorse's financial condition and results of operations, and to correct promptly  
6 any public statements issued by the Company which had become materially false or  
7 misleading.

8 359. Because of their positions of control and authority as senior officers,  
9 the Individual Defendants were able to, and did, control the contents of the various  
10 reports, press releases, statements to the media, and public filings which Workhorse  
11 disseminated in the marketplace during the Class Period concerning the Company's  
12 results of operations. Throughout the Class Period, the Individual Defendants  
13 exercised their power and authority to cause the Company to engage in the wrongful  
14 acts complained of herein. The Individual Defendants, therefore, were "controlling  
15 persons" of the Company within the meaning of Section 20(a) of the Exchange Act.  
16 In this capacity, they participated in the unlawful conduct alleged which artificially  
17 inflated the market price of Workhorse securities.

18 360. While Workhorse securities traded at artificially inflated prices, the  
19 Individual Defendants personally profited by selling approximately 850,000 shares  
20 of Workhorse securities, collectively, while in possession of adverse, material non-  
21 public information about Workhorse, acquiring a total of more than \$21.5 million in  
22 illegal insider trading proceeds between them.

23 361. Plaintiffs purchased Workhorse securities contemporaneously with the  
24 Individual Defendants' sales.

25 362. By virtue of the Individual Defendants' participation in the scheme to  
26 defraud investors described herein and/or their trades in securities while in  
27 possession of material, non-public information about the adverse information



1 detailed herein, Hughes, Schrader, Willison, and Ackerman violated the Exchange  
2 Act and applicable rules and regulations thereunder.

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

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, Plaintiffs, on behalf of themselves and the Class, pray for  
7 judgment and relief as follows:

8 (a) declaring this action to be a proper class action, designating Plaintiffs as  
9 class representatives under Rule 23 of the Federal Rules of Civil Procedure and  
10 designating Plaintiffs' counsel as Lead Counsel;

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

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

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

17 **JURY TRIAL DEMANDED**

18 Plaintiffs hereby demand a trial by jury.

19 Dated: July 16, 2021

**KAHN SWICK & FOTI, LLC**

20 /s/ Kim E. Miller  
21 Kim E. Miller (SBN 178370)  
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23 250 Park Avenue, 7th Floor  
24 New York, NY 10177  
25 Telephone: (212) 696-3730  
26 Facsimile: (504) 455-1498

27 *Counsel for Lead Plaintiff Timothy M. Weis  
28 and Additional Plaintiff Angelo Federico  
and Lead Counsel for the Class*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify under penalty of perjury that on July 16, 2021, I  
3 authorized the electronic filing of the foregoing Amended Complaint for  
4 Violation of Federal Securities Law with the Clerk of the Court using the CM/  
5 ECF system which will send a Notice of Electronic Filing (NEF) to all parties to  
6 all counsel of record.

7  
8  
9 */s/ Kim E. Miller* \_\_\_\_\_

10 Kim E. Miller  
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