

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96998 / March 1, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-20687

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In the Matter of	:	
	:	
Nikola Corporation,	:	ORDER APPOINTING
	:	FUND ADMINISTRATOR AND
Respondent.	:	SETTING ADMINISTRATOR'S
_____	:	BOND AMOUNT
	:	

On December 21, 2021, the Commission issued an Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against Nikola Corporation (“Nikola” or the “Respondent”). In the Order, the Commission found that from at least March 2020 through September 2020, Nikola, a publicly traded zero emissions transportation system, made material misrepresentations to investors about key aspects of its business. According to the Order, through misrepresentations made by its CEO and later Executive Chairman, Trevor R. Milton (“Milton”), Nikola misled investors about, among other things, its technological advancements, in-house production capabilities, reservation book, and financial outlook, all aimed at inflating and maintaining Nikola’s stock price. In addition, the Commission found that Nikola failed to

¹ Securities Act Rel. No. 11018 (Dec. 21, 2021).

maintain disclosure controls and procedures as required by the Securities Exchange Act of 1934 (“Exchange Act”) rules for issuers with a class of securities registered under the Exchange Act.

The Commission found that, as a result of the conduct described in the Order, Nikola violated Section 10(b) of the Exchange Act and Rules 10b-5 and 13a-15(a) thereunder and Section 17(a) of the Securities Act of 1933. The Commission ordered the Nikola to pay a \$125,000,000.00 civil money penalty. The Commission also created the Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty paid can be distributed to harmed investors (the “Fair Fund”).

The Fair Fund consists of \$35,000,000.00 paid to date by the Respondent, any additional funds collected from the Respondent, pursuant to the Order, will be added to the Fair Fund. The Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury, and any accrued interest will be added to the Fair Fund.

The Division of Enforcement now seeks the appointment of Analytics Consulting LLC (“Analytics”) as the fund administrator and requests that the administrator’s bond be set at \$35,000,000.00. Analytics is included in the Commission’s approved pool of administrators.

Accordingly, IT IS HEREBY ORDERED that Analytics is appointed as the fund administrator, pursuant to Rule 1105(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”),² and shall obtain a bond in accordance with Rule 1105(c) of the Commission’s Rules,³ in the amount of \$35,000,000.00.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁴

Vanessa A. Countryman
Secretary

² 17 C.F.R. § 201.1105(a).

³ 17 C.F.R. § 201.1105(c).

⁴ 17 C.F.R. § 200.30-4(a)(17).