

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11240 / September 21, 2023

SECURITIES EXCHANGE ACT OF 1934
Release No. 98476 / September 21, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21697

In the Matter of

Kandi Technologies Group, Inc.,

Respondent.

**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 A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“SEC” or “Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Kandi Technologies Group, Inc. (“Kandi” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this 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 a Cease-and-Desist Order (“Order”).

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that

Summary

1. Throughout 2019 and 2020, Kandi, a China-based manufacturer of vehicles, including go-karts, all-terrain vehicles, and electric cars, made materially misleading statements and omissions concerning its planned launch of highway passenger electric vehicles ("EVs") in the United States. Kandi's statements created the false impression that, among other things, Kandi's EVs had satisfied all U.S. safety requirements and received regulatory approvals, and that the sale of Kandi EVs in the U.S. was imminent.

2. Kandi stated in a February 20, 2019 press release that a recent approval of certain Kandi EVs by the National Highway Traffic Safety Administration ("NHTSA") "has demonstrated our EV models meet all the necessary requirements and standards of the U.S. government." This statement was misleading because while these vehicles satisfied certain U.S. safety requirements, other safety requirements remained unmet. Kandi's EVs never met all U.S. safety standards, and the company never sold its EVs to U.S. consumers. Nevertheless, in its Form 10-K for fiscal year 2019, filed with the Commission on April 28, 2020, Kandi stated that its U.S. subsidiary was set to begin sales of Kandi EVs in 2020, and that it believed that "the electric vehicle [sic] sold to U.S. can meet the U.S. product safety regulations and standards."

3. In an October 2, 2019 press release and a Form 10-Q filed with the Commission on November 12, 2019, Kandi stated that it had entered into a contract to supply its U.S. subsidiary, SC Autosports, LLC ("SC Auto"), with 2,000 EVs at a value of approximately \$32 million. Kandi also stated that "[a]ccording to the Contract, the first 200 vehicles are expected to be delivered by the end of 2019." In fact, the purported contract did not provide for the shipment of 200 vehicles by year-end 2019, and no such vehicles were shipped. On July 30, 2020, Kandi issued a press release announcing the "formal launch of the most affordable pure electric automobiles in the U.S. market," and stated that its K23 and K27 EV models "will be available for delivery in the fourth quarter of 2020." In late summer 2020, Kandi promoted those vehicles as "street-legal" and "highway-legal" in all 50 states. In a Form 8-K filed with the Commission on September 3, 2020, Kandi stated that its EVs were "sold in China *and the U.S.*" (emphasis added) and described those cars as having a top speed of up to 70 mph and a range up to 188 miles. Kandi had no reasonable basis for these misleading statements, and no such automobiles were ever delivered to or sold in the U.S.

4. In the Fall of 2020, Kandi made a decision to pivot from selling its EVs in the U.S. as passenger cars and instead decided to market them as low-speed neighborhood vehicles ("NEVs"). Kandi ultimately disclosed in its quarterly report filed on November 9, 2020, that it had not yet sold a single passenger EV in the U.S., and stated it was having issues getting approval to do so. It claimed to be performing a "self-inspection" to determine if its vehicles complied with

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

safety standards published by the Department of Transportation, and further stated that it was in the process of “modifying features” to cater to its potential U.S. customers. Nevertheless, a December 7, 2020 Letter to Shareholders from Kandi’s Chairman and CEO, published on Kandi’s web site, stated that Kandi’s K27 model “is scheduled to be launched on the market soon,” and that the safety certification for the K23 model “is being finalized and we anticipate customer deliveries in the first quarter of 2021.”

5. As a result of the conduct described herein, Kandi violated Securities Act Section 17(a)(3) and the reporting provisions of the Exchange Act found in Section 13(a) and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

Respondent

6. **Kandi Technologies Group, Inc.** (“Kandi” or “Respondent”) is a Delaware corporation headquartered in the Jinhua Economic Development Zone, Zhejiang Province, People’s Republic of China. Its common stock is registered with the Commission under Section 12(b) of the Exchange Act, and trades on NASDAQ under the symbol “KNDI.” Kandi is engaged in the research, development, manufacturing, and sales of vehicles, primarily in China. Kandi operates in the United States through its wholly owned Texas-based subsidiary, SC Auto.

Facts

Background

7. Kandi is a China-based manufacturer of vehicles, including go-karts, all-terrain vehicles, and electric cars.

8. In June 2018, Kandi acquired Sportsman Country, LLC, a Texas-based company primarily engaged in the wholesale of off-road vehicle products. Following the acquisition, Sportsman Country, LLC changed its name to SC Auto, which also did business as Kandi America.

9. In a press release announcing the acquisition, Kandi stated that its purpose in acquiring SC Auto was “for bringing its pure electric vehicles to the United States.” Kandi further stated that the electric vehicles it planned to sell “possess a trendy appearance as well as good performance and affordable pricing; these are highly competitive in the U.S. market.”

10. In the two-and-a half years following Kandi’s acquisition of SC Auto, Kandi made a number of materially misleading public statements and omissions regarding its planned EV sales launch in the U.S., including statements about when Kandi’s EV sales would begin; statements regarding regulatory approval of its EVs; and statements about a purported “Launch Conference” and sales contract with its U.S. subsidiary. Throughout this time period, Kandi offered securities through the issuance of restricted stock to company executives.

Respondent's Materially Misleading Statements About the Timing of Its U.S. EV Launch

11. Throughout 2019 and 2020, Kandi made misleading statements concerning its plans to sell EVs in the United States. As time went on, Kandi repeatedly pushed back the purported launch of its EV sales in the U.S. and typically did not explain the reasons for the delay. Kandi's materially misleading statements included:

- In its 10-Q filed with the Commission on November 12, 2019, Kandi stated that “the first 200 vehicles are expected to be delivered by the end of 2019.”
- In its fiscal year 2019 10-K, filed with the Commission on April 28, 2020, Kandi announced that “[t]hrough more than one year’s preparation, SC Autosports is to begin to sell Kandi’s electric vehicles in the U.S. market this year.”
- In its 10-Q filed with the Commission on June 5, 2020, Kandi stated that it “originally planned to export 2,000 to 5,000 units electric vehicles to the U.S. in 2020, but due to the COVID-19 pandemic in the first half of 2020, the plan should be adjusted according to the situation of COVID-19 control in the U.S.” However, during a June 20, 2020 investor call, Kandi’s Chairman and CEO stated that he expected the company to sell approximately 2,000 EVs in the U.S. by the end of 2020.
- The following month, in a July 30, 2020 press release, Kandi announced “formal launch of the most affordable pure electric automobiles in the U.S. market.” Kandi noted that “[c]ustomers can reserve their models K27 or K23 EVs [the two models Kandi purportedly planned to release in the U.S.] with a fully-refundable \$100 deposit, which will be available for delivery in the fourth quarter of 2020.”

12. These statements were materially misleading, and Kandi did not have a reasonable basis for making them. In reality, Kandi imported fewer than 120 prototype EVs into the United States throughout 2019 and 2020, and none were the type of passenger cars Kandi described in its public statements.

Respondent's Materially Misleading Statements and Omissions About U.S. Regulatory Approval

13. Often, Kandi’s unrealistic timelines were coupled with materially misleading statements about whether its EVs had all necessary regulatory approvals. In a February 20, 2019 press release announcing that the NHTSA had approved certain Kandi EVs “for importation and registration,” Kandi stated that the “approval has demonstrated our EV models meet *all the necessary requirements and standards of the U.S. government*” (emphasis added). The press release further stated that the NHTSA approval “is an assurance that Kandi’s two EV models conform to NHTSA standards” and that Kandi would “begin the process of launching [the EVs]

for the American market.” These statements, which received extensive media coverage, were materially misleading because Kandi knew or should have known that the vehicles did not meet all U.S. safety and regulatory requirements.

14. In its fiscal year 2019 Form 10-K, filed with the Commission on April 28, 2020, Kandi again referenced the NHTSA approval, and stated that it “believes that the electric vehicle [sic] sold to U.S. can meet the U.S. product safety regulations and standards.” Kandi did not have a reasonable basis for this statement because, among other reasons, Kandi’s EVs did not have airbags that complied with U.S. safety standards.

15. Nevertheless, in a presentation attached to a Form 8-K filed with the Commission on September 3, 2020, Kandi stated that its EVs were “sold in China *and the U.S.*” (emphasis added). It described one EV model as an “affordable starter EV” with a top speed of 63 mph and a range of 100 miles and described a second model as the “next step up,” with a top speed of 70 mph and a range of 188 miles. These statements were materially misleading because neither of those EV models was ever sold in the U.S.

Respondent’s Materially Misleading October 2019 Press Release

16. In an October 2, 2019 press release and its Form 10-Q filed with the Commission on November 12, 2019, Kandi stated that one of its EVs had been approved for a U.S. tax credit of \$7,500, and described an EV “Launch Conference” in Texas hosted by SC Auto in September 2019. This purported “Launch Conference” was a periodic SC Auto event held in Texas for distributors of its standard off-road products, during which the EV prototypes were shown to SC Auto’s dealers and customers.

17. Kandi also announced in the press release and Form 10-Q that as a result of the successful “Launch Conference,” it had signed a supply contract to provide 2,000 model K23 EVs to SC Auto, at a total value of \$32 million. Kandi further stated that the contract called for delivery of the first 200 vehicles by the end of 2019. This statement was materially misleading because the purported contract did not state that 200 vehicles were expected to be delivered by the end of 2019. It merely stated that delivery of any vehicles would be made within 45 days of a specific order. SC Auto never placed an order pursuant to the purported contract.

Kandi Ultimately Disclosed the Issues with Its EV Launch

18. In the Fall of 2020, Kandi made a decision to pivot from selling its EVs in the U.S. as passenger cars and instead decided to market its EVs as NEVs. In a 10-Q filed with the Commission on November 9, 2020, Kandi publicly acknowledged that its EVs had failed to meet certain safety requirements, that it had not sold a single EV in the United States, and that “there is no assurance all conditions for the sale of EVs in the U.S. could be satisfied as planned.” Following the announcement, the price of Kandi common stock dropped more than 20%.

19. Notwithstanding these disclosures, a December 7, 2020 Letter to Shareholders from Kandi’s Chairman and CEO, published on Kandi’s web site, contained additional materially

misleading statements. The letter stated that Kandi's K27 model recently met U.S. safety regulations and "is scheduled to be launched on the market soon," and that the safety certification for the K23 model "is being finalized and we anticipate customer deliveries in the first quarter of 2021." These statements were inaccurate because they failed to specify that the regulations and certifications were for NEVs and that, by this time, Kandi was no longer planning to sell full-speed passenger EV models in the U.S. Instead, it was planning to release two NEV models. By February 2021, Kandi updated its web site to include the NEVs.

Violations

20. As a result of the conduct described above, Kandi violated Section 17(a)(3) of the Securities Act, which makes it unlawful for "any person in the offer or sale of any securities . . . to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser."²

21. Also as a result of the conduct described above, Kandi violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, 13a-13 and 12b-20 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and annual, quarterly and current reports as the Commission may require, and mandate that the reports contain such further material information as may be necessary to make the required statements not misleading.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a)(3) of the Securities Act, Section 13(a) of the Exchange Act, and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.
- B. Respondent shall, within seven days of the entry of this Order, pay a civil money penalty in the amount of \$710,000 to the Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.
- C. Payment must be made in one of the following ways:

² A violation of Section 17(a)(3) of the Securities Act does not require scienter and may rest on a finding of negligence. *See Aaron v. SEC*, 446 U.S. 680, 685, 701-02 (1980).

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC web site at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Kandi as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Carolyn Welshhans, Associate Director, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary