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13
14 UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION
17

18 _____)
19)
20 IN RE LUCID GROUP, INC.)
SECURITIES LITIGATION)
21)
22)
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24)
25 _____)

Case No. 3:22-cv-02094-JD

**DEFENDANTS' NOTICE OF MOTION
AND MOTION TO DISMISS THE
CONSOLIDATED COMPLAINT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Date: June 15, 2023
Time: 10:00 a.m.
Dep't.: Courtroom 11
Judge: Honorable James Donato

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Term	Definition
Appendix	Appendix to this motion, attached as Ex. 15 to the accompanying Declaration of Neal A. Potischman
CC	Plaintiffs' Consolidated Complaint for Violations of the Federal Securities Laws (Dkt. No. 78)
CEO	Chief Executive Officer
CFO	Chief Financial Officer
Class Period	The putative class period between November 15, 2021 and August 3, 2022
CTO	Chief Technology Officer
CW	Confidential Witness
Exchange Act	Securities Exchange Act of 1934
EV	Electric Vehicle
FE	Former Employee
FRCP	Federal Rules of Civil Procedure
Lead Plaintiff	Sjunde AP-Fonden, the court-appointed lead plaintiff in this Action
Lucid	Lucid Group, Inc. and the Company's subsidiary Atieva, Inc., which previously did business under the name Lucid Motors
PSLRA	Private Securities Litigation Reform Act
RSU	Restricted Stock Unit
SPAC	Special Purpose Acquisition Company

NOTE ON CITATION FORMATS

Unless otherwise stated, all emphases and ellipses in citations used herein have been added, and all quotations, internal quotation marks and citations have been omitted.

Commonly used citations in this brief take the following form:

CITATION	DESCRIPTION
¶ [•]	Paragraph in CC
Ex. [•]	Exhibit to the Declaration of Neal A. Potischman
# [•]	Numbered alleged misstatement set forth in (i) Exhibit B to CC (Dkt. No. 78-2) and (ii) the Appendix

1 **NOTICE OF MOTION AND MOTION TO DISMISS**

2 PLEASE TAKE NOTICE that on June 15, 2023 at 10:00 a.m., or as soon thereafter as the
3 matter may be heard, in Courtroom 11, 450 Golden Gate Avenue, San Francisco, CA 94102,
4 Defendants Lucid, Peter Rawlinson, and Sherry House will and hereby do move the Court for an
5 order dismissing with prejudice Plaintiffs' CC in its entirety. Defendants move to dismiss pursuant
6 to FRCP 9(b) and 12(b)(6) and the PSLRA on the grounds that Plaintiffs fail to state a claim for
7 violation of Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) & 78t(a), and
8 Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5. This motion is based on this Notice of
9 Motion, the supporting Memorandum of Points and Authorities, the Declaration of Neal A.
10 Potischman and accompanying exhibits, the Request for Judicial Notice, other materials in the
11 record, argument of counsel, and such other matters as the Court may consider.

12 **STATEMENT OF ISSUES**

13 1. Whether Plaintiffs' Section 10(b) and Rule 10b-5 claim should be dismissed because
14 Plaintiffs have failed to allege with particularity facts showing that Defendants made any actionable
15 false or misleading statements of material fact, 15 U.S.C. § 78u-4(b)(1), insofar as the purported
16 misstatements and omissions challenged in the CC (a) are not plausibly alleged through well-pled,
17 particularized factual allegations to have been false or misleading; (b) are forward-looking
18 statements protected by the PSLRA's safe harbor, 15 U.S.C. § 78u-5; (c) are nonactionable
19 statements of opinion; and/or (d) are nonactionable corporate puffery.

20 2. Whether Plaintiffs' Section 10(b) and Rule 10b-5 claim should be dismissed because
21 Plaintiffs have failed to allege with particularity facts giving rise to a strong inference that
22 Defendants made any of the challenged statements with scienter, 15 U.S.C. § 78u-4(b)(2).

23 3. Whether Plaintiffs' Section 20(a) claim should be dismissed because Plaintiffs have
24 failed to plead a primary violation of Section 10(b).

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **PRELIMINARY STATEMENT**

3 In November 2021, Lucid—a recently public EV manufacturer—reiterated a previously
4 disclosed goal of producing 20,000 cars by the end of 2022. Lucid made clear, however, that this
5 was not a guarantee and was forthright about the many risks that might prevent it from reaching its
6 goal, including dependence on third-party suppliers and the need to work through logistics issues
7 such as inventory management. Lucid amplified those risk disclosures *every quarter*, in SEC
8 filings and earnings calls. Subsequently, when it became apparent—as a result of, among other
9 things, the same supply chain and logistics issues of which it had warned—that Lucid could not hit
10 the 2022 targets, it revised its projections lower. Plaintiffs (dissatisfied investors who purchased
11 Lucid stock during the Class Period) now cry fraud, asserting claims under Sections 10(b) and
12 20(a) of the Exchange Act. But Plaintiffs’ claims amount to impermissible fraud by hindsight—
13 constructed from workaday complaints by former employees that do not actually render false
14 anything Defendants said publicly. The Court should dismiss the CC for two independent reasons.

15 *First*, Plaintiffs fail to plausibly plead—much less with particularity—that Defendants made
16 any actionable misstatement or omission. The allegations in the CC and documents incorporated
17 by reference therein confirm that there was nothing false or misleading about the 30 challenged
18 statements allegedly made by Defendants and two nondefendant Lucid employees. Plaintiffs assert
19 that Defendants knew Lucid’s production targets for 2022 were unachievable, but the only support
20 for this contention—allegations attributed to certain anonymous FEs—do not satisfy their burden.
21 Plaintiffs’ case effectively boils down to the facially implausible allegation by a single FE that
22 Mr. Rawlinson said at some unspecified meeting in October or November 2021, to unspecified
23 participants, that Lucid knew, months before 2021 had even ended, that it would not meet its
24 production forecasts for the following year. But this allegation contradicts others in the CC and
25 cannot be credited under Ninth Circuit law. Plaintiffs likewise assert, based on allegations by the
26 other FEs, that Lucid misrepresented that its production delays were caused by global, third-party
27 supply chain issues when they were instead supposedly caused by Lucid-specific logistics and
28 inventory problems. But none of the FEs’ allegations render any of the challenged statements false

1 or misleading. As is clear from the CC itself, both issues were entirely related, and both were
 2 disclosed—clearly, repeatedly, and sometimes in the very same announcements as the statements
 3 that Plaintiffs cherry-pick out of context to challenge as fraudulent. Moreover, virtually all the
 4 statements are protected by the PSLRA safe harbor or are nonactionable opinions or puffery.

5 *Second*, Plaintiffs fail to plead particularized facts supporting a strong inference of scienter.
 6 Plaintiffs rely largely on the FEs to try to allege that Defendants knew from the outset of the Class
 7 Period that Lucid could not achieve its vehicle production targets. But, as is clear from the CC, the
 8 FEs were steps removed from Defendants, with narrow warehouse or factory roles unrelated to
 9 projecting production volumes. There is not a single well-pled, plausible allegation supporting a
 10 strong inference that Defendants knew that any challenged statement was inaccurate when made.
 11 Plaintiffs’ additional allegations that Defendants had motive and opportunity to defraud likewise
 12 fail; such allegations cannot raise a strong inference of scienter as a matter of law, and in any event,
 13 the proffered motives are entirely generic or otherwise baseless. Nor do Plaintiffs’ allegations of
 14 “temporal proximity” between the challenged statements and revisions to Lucid’s production
 15 guidance suffice to plead scienter as they amount to nonactionable fraud by hindsight.

16 Finally, Plaintiffs’ control person claim under Section 20(a) also fails because Plaintiffs
 17 cannot plead a primary violation under Section 10(b).

18 For these reasons, and those below, the Court should dismiss the CC with prejudice.

19 **STATEMENT OF FACTS AND ALLEGATIONS¹**

20 *About Defendants.* Lucid is an EV manufacturer based in Newark, California. (¶ 40.)
 21 Mr. Rawlinson, its CEO and CTO, joined Lucid in 2013 after working in leadership roles for Tesla,
 22 Lotus, and Jaguar. (¶ 68.) In early 2021, Lucid announced plans to go public via a SPAC merger,
 23 which was completed in July of that year. (¶¶ 12, 103.) Ms. House, also an automotive industry
 24 veteran, joined the Company as CFO in May 2021. (¶ 42.) Lucid’s first production model is the
 25 technologically advanced Lucid Air sedan. (¶¶ 67, 70, 73.) It entered production in September
 26

27 ¹ Solely for purposes of this motion to dismiss, well-pled factual allegations in the CC are presumed
 28 true, but conclusory allegations, legal conclusions, or allegations contradicted by documents
 appended to or incorporated by reference in the CC or subject to judicial notice are not. *See, e.g.,*
Reese v. BP Expl. (Alaska) Inc., 643 F.3d 681, 690 (9th Cir. 2011).

1 2021 and quickly won Motor Trend’s 2022 Car of the Year award. (¶¶ 13, 77.)

2 **Lucid’s Public Disclosures.** Plaintiffs’ claims focus on Lucid’s projected production
3 targets for 2022, which Lucid revised downward during the Class Period—from 20,000 vehicles at
4 the beginning of the Class Period (¶ 349), to 12-14,000 vehicles on February 28, 2022 (¶¶ 373, 395-
5 98), and then to 6-7,000 vehicles, on August 3, 2022 (¶ 338)—due to persistent global supply chain
6 challenges and various logistical hurdles that became more apparent over time, as Lucid ramped up
7 production. These risks were fully disclosed. During the Class Period, Lucid repeatedly made
8 clear that its ability to meet its vehicle production targets depended on overcoming technological,
9 supply chain, and logistics hurdles. For example, in the Q3 earnings release and initial earnings
10 call on November 15, 2021, Defendants explained that Lucid’s initial 20,000 vehicle target was a
11 projection, not a guarantee—cautioning that “this target is not without risk, given ongoing
12 challenges facing the automotive industry with global disruptions to supply chains and logistics”
13 (¶¶ 349-50), and remained subject to “numerous obstacles” (¶ 351).

14 Throughout the Class Period, Lucid further elaborated on the substantial risks that could
15 prevent it from achieving vehicle production targets. Indeed, Lucid’s Form 10-Q for the third
16 quarter of 2021, issued on November 15, 2021, at the outset of the Class Period, included **40 pages**
17 of risk factors that could adversely affect Lucid’s ability, as a new vehicle manufacturer that had
18 not yet ramped up to manufacture at large scale, to meet production targets, including the very risks
19 that Plaintiffs now claim to have been concealed. (Ex. 1 at 48-87.²) For example:

- 20 • “[W]e have no experience manufacturing . . . at scale” and “**have encountered and expect**
21 **to continue to encounter . . . risks relating to our ability to . . . refine our commercial**
22 **manufacturing capabilities . . .**” (*Id.* at 50-51.)
- 23 • “We **have experienced** and **may in the future experience significant delays** in the design,
24 **manufacture**, launch and financing **of the Lucid Air**, which could harm our business and
25 prospects.” (*Id.* at 57.)
- 26 • “Our plan to commercially manufacture and sell the Lucid Air is **dependent upon** . . . our
27 **finalizing** of the related design, engineering, **component procurement**, testing, build-out
28 and **manufacturing plans** in a timely manner **and also upon our ability to execute these**

² The exhibits cited herein are subject to judicial notice, as set forth in the accompanying Request for Judicial Notice, or are incorporated by reference in the CC—and, therefore, may be considered on a motion to dismiss, *Wochos v. Tesla, Inc.*, 985 F.3d 1180, 1185 (9th Cir. 2021).

1 *plans* within the planned timeline.” (*Id.*)

- 2 • “[W]e rely on third party suppliers for the provision and development of many of the key
3 components and materials used in our vehicles” and, “[*t*]o the extent our suppliers
4 *experience any delays in providing us with or developing necessary components, we could
5 experience delays in delivering on our timelines.*” (*Id.*)
- 5 • “We *cannot provide any assurance as to whether we will be able to develop efficient,
6 automated, low-cost production capabilities and processes . . . that will enable us to meet
7 the quality, price, engineering, design and production standards, as well as the
8 production volumes, required to successfully mass market our vehicles.*” (*Id.* at 60-61.)
- 8 • “*Bottlenecks and other unexpected challenges may also arise as we ramp production of
9 the Lucid Air, and it will be important that we address them promptly while continuing to
10 control our manufacturing costs. If we are not successful in doing so, or if we experience
11 issues with our manufacturing process improvements, we could face delays in
12 establishing and/or sustaining our production ramps*” (*Id.*)
- 11 • “[V]olume production of the Lucid Air . . . will necessitate continued development,
12 maintenance and improvement of our information technology and communications
13 systems . . . , such as systems for product data management, procurement, *inventory
14 management*, [and] production planning and execution. . . . *We cannot be certain that
15 these systems or their required functionality will be effectively and timely developed,
16 implemented, maintained, or expanded as planned. . . . If these systems or their
17 functionality do not operate as we expect them to, we may be required to expend
18 significant resources to make corrections or find alternative sources for performing these
19 functions. Any of the foregoing could materially adversely affect our business, prospects,
20 results of operations and financial condition.*” (*Id.* at 66.)

17 Lucid reiterated and expanded upon these warnings in its subsequent public filings during
18 the Class Period. (See generally Exs. 2-4.) For example, Lucid’s 2021 Form 10-K warned that the
19 Company’s failure to “*implement or maintain effective inventory management and other systems,
20 processes and personnel to support ongoing and increased production, could have a material
21 adverse effect.*” (Ex. 2 at 22, 33; see also *id.* at 34 (warning of “material adverse effect” if Lucid
22 failed to “*accurately forecast, purchase, warehouse and transport components to our
23 manufacturing facilities . . . at much higher volumes*”).) Lucid also warned that any failure by its
24 suppliers to make timely deliveries or meet quality standards, “*even . . . in only one part, could
25 significantly affect our ability to meet our planned vehicle production targets.*” (*Id.* at 33-34.)

26 In its earnings calls and press releases, Lucid consistently flagged that the contents thereof
27 included “forward-looking statements” as to the “timing of deliveries” and “future manufacturing
28 capabilities,” which were “subject to a number of risks and uncertainties, including . . . risks related

1 to commodity, supply chain and logistics” (Ex. 10 at 3), and directed investors to the risk factors in
2 Lucid’s securities filings (Ex. 5 at 4; *see also* Exs. 6-12).

3 ***Production Challenges.*** Consistent with its risk disclosures, Lucid did face supply chain
4 issues and related logistics challenges—including parts shortages, delayed or incomplete orders,
5 part-quality issues, and difficulties with inventory management. (¶¶ 161, 246, 250-52.) Lucid
6 worked diligently to mitigate these issues, including by implementing new inventory management
7 software, replacing the third-party logistics firm it had originally hired to manage its warehouse,
8 arranging additional parts storage, and redesigning parts or finding new suppliers. (¶¶ 55-56, 183-
9 84, 223, 247-48, 378.) Despite these efforts, however, it ultimately became clear that the delays
10 created by these issues would preclude Lucid from meeting its projections and that the mitigation
11 efforts would be insufficient. Accordingly, Lucid updated its 2022 production targets.

12 On February 28, 2022, Lucid reduced its 2022 projection from 20,000 to 12-14,000
13 vehicles. (¶ 374.) In the Q4 2021 earnings call that day, Mr. Rawlinson outlined that Lucid, like
14 many car manufacturers, was impacted by supply chain issues, due in part to the COVID-19
15 pandemic. (Ex. 7 at 6.) Ms. House further underscored that the new target merely represented
16 Lucid’s “best estimate as we analyze our relationship with our suppliers and where the bottlenecks
17 still exist in the supply chain, as well as our own internal plans to improve logistics.” (¶ 380.)

18 On May 5, 2022, in its Q1 earnings release, Lucid once again warned investors of ongoing
19 “global supply chain challenges.” (¶ 332; Ex. 10 at 1.) In the release, Ms. House emphasized that
20 Lucid’s then-current 2022 projection of producing 12-14,000 vehicles was based on information
21 available “at this point combined with our mitigation plans,” but that “any extended disruptions
22 could result in an impact to our production forecast.” (¶ 332; Ex. 10 at 1.) During Lucid’s earnings
23 call later that day, Ms. House further explained that the target was achievable only “so long as the
24 supply chain logistics disruptions aren’t material and our mitigation plans are effective,” while Mr.
25 Rawlinson stressed that the target was based on “information we have at this point, combined with
26 our mitigation plans,” but that “supply chain dynamics are very fluid.” (Ex. 9 at 6, 12.)

27 On May 20, 2022, Mr. Rawlinson disclosed that the Company faced “near-term challenges
28 with commodity goods” but that Lucid was working to try to fix them. (¶ 412.) On August 3,

1 2022, when it became clear that Lucid could not overcome its various supply chain and logistics
 2 challenges, it reduced its 2022 production target to 6-7,000 vehicles. (¶ 443.) In an earnings call
 3 that day, Mr. Rawlinson explained that, despite resolving “some earlier gating component supply
 4 issues,” Lucid continued to experience delays, such as “limitations of our logistics system,” that
 5 prevented it from “scaling meaningfully” during the quarter. (Ex. 11 at 5.)

6 ***Alleged Misrepresentations.*** Plaintiffs allege that throughout the Class Period, Lucid knew
 7 that it would not hit its 2022 vehicle production targets, and also purportedly failed to disclose that
 8 warehouse, logistics, and part design issues—rather than supply chain issues—were supposedly
 9 responsible for the projections miss. (¶¶ 136-294.) Plaintiffs challenge a laundry list of statements
 10 in earnings calls, press releases, and other media, which generally concerned: (i) Lucid’s vehicle
 11 production targets for 2022 and confidence in meeting them (e.g., “We remain confident in our
 12 ability to achieve 20,000 units in 2022” (¶ 349)); (ii) explanations for production delays and
 13 optimism about its ability to overcome them (e.g., “[W]e’re talking largely paradoxically
 14 commodity suppliers, finishes, carpet glass” and “we’re very optimistic that we will resolve [these
 15 issues], but it’s going to take a few months” (¶ 383)); (iii) Lucid’s quality standards (e.g., “we’ve
 16 chosen quality over volume” (¶ 385)); and (iv) factory capacity (e.g., “We have the capacity to fill
 17 all the orders received to date and more” (¶ 368)). (See generally ¶¶ 349-417.)

18 Plaintiffs’ allegations rest largely on ten “FEs”—former Lucid employees who held a
 19 variety of logistics, engineering, training, quality inspection, and inventory control roles at Lucid’s
 20 Casa Grande production facility and parts warehouse between 2021 and 2022. (¶¶ 57-66.) The FEs
 21 assert that warehouse disorganization and a lack of a reliable inventory system led to inaccuracy,
 22 inefficiency, and production delays. (¶¶ 20, 129, 136, 138, 142-56, 174, 180, 187, 205-13, 215-17,
 23 276.) None of the FEs had any alleged role in forecasting vehicle production targets. Indeed, only
 24 three FEs allege any personal interaction with the individual Defendants.³

25
 26 ³ FE-1 allegedly told Mr. Rawlinson during a meeting in September 2021 and/or November 2021
 27 that “Lucid would never meet its production goals,” and Mr. Rawlinson allegedly “nodd[ed] his
 28 head” in response. (¶ 291.) FE-2 alleges that Mr. Rawlinson (and others) said during meetings in
 October 2021 that Lucid would miss year-end vehicle production targets for 2021, 2022, and 2023
 due to “inventory control problems, vehicle redesign, and supply chain problems” and said,
 confidentially, at “one meeting in October 2021 or the first week of November 2022” that “Lucid

1 **LEGAL STANDARDS**

2 To avoid dismissal, complaints must contain enough facts to state facially “plausible”
 3 claims. *Weston Family P’ship LLLP v. Twitter, Inc.*, 29 F.4th 611, 617 (9th Cir. 2022). Securities
 4 fraud claims also “face more demanding pleading standards set out in Rule 9(b) and the PSLRA,”
 5 *id.* at 617-18, which require Plaintiffs to “specify each statement alleged to have been misleading”
 6 and “the reason or reasons why the statement is misleading,” as well as “raise a strong inference of
 7 scienter,” *Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1061-62 (9th Cir. 2008).

8 **ARGUMENT**

9 **I. PLAINTIFFS PLEAD NO ACTIONABLE MISSTATEMENT OR OMISSION**

10 Plaintiffs do not allege particularized facts to show that any of the 30 statements at issue are
 11 false or misleading. Moreover, the statements are protected by the PSLRA safe harbor or are
 12 nonactionable statements of opinion or corporate puffery.⁴

13 **A. Plaintiffs Do Not Allege Any False or Misleading Statement.**

14 The CC contains no particularized facts from which to plausibly conclude that any of the
 15 challenged statements were false or misleading when made. “For a statement to be false or
 16 misleading, it must directly contradict what the defendant knew at the time or omit[] material
 17 information.” *Weston*, 29 F.4th at 619. Here, Plaintiffs rest their claims largely on allegations by
 18 former factory and warehouse employees about purported logistics and inventory issues, but
 19 nothing they say “directly contradicts” Defendants’ public statements or renders them misleading.

20 ***Production Targets.*** The FE allegations do not render false or misleading Lucid’s
 21 production targets, Defendants’ expressions of confidence in those targets, or statements about
 22 Lucid’s commitment to quality.⁵ With one exception (addressed below), none of the FEs even
 23 arguably contradict what Defendants clearly and repeatedly disclosed during the Class Period—that

24 _____
 25 would make less than 10,000 vehicles in 2022.” (¶¶ 288-89.) And FE-3 was allegedly copied on a
 May 2022 email requesting Ms. House’s approval to scrap \$22 million in parts. (¶ 211.)

26 ⁴ The CC challenges 17 statements by Mr. Rawlinson (## 1, 3, 4, 5, 9, 10, 11, 12, 15, 16, 17, 18, 20,
 27 23, 24, 27, 29), 7 statements by Ms. House (## 2, 13, 14, 21, 22, 25, 26), 3 statements by
 nondefendant Lucid employees (## 6, 7, 30), and 3 statements attributed to “Defendants” (## 8, 19,
 28 28). For ease of the Court, the Appendix (Ex. 15) summarizes the reasons, as explained herein,
 why each specific challenged statement is not actionable.

⁵ ## 1-4, 6, 8-10, 12-16, 18-23, 25-30.

1 achieving Lucid’s production targets was contingent on building out its high-volume manufacturing
2 capabilities, while implementing inventory management systems, receiving and delivering high
3 quality parts to the factory, accurately forecasting requirements, and overcoming any delays. *Supra*
4 3-4. That Lucid allegedly experienced difficulties in these areas over time is “not inconsistent with
5 [Defendants’] statements so as to show that the statements must have been false or misleading
6 when made.” *Ronconi v. Larkin*, 253 F.3d 423, 434 (9th Cir. 2001) (alleged “serious operational
7 problems” and “substantial difficul[ties]” did not render false statements about increased earnings).

8 Indeed, as the FEs acknowledge, Lucid expended significant efforts to address these
9 difficulties during the Class Period. (¶¶ 55-56, 183-84, 223, 247-48.) The FE allegations are thus
10 consistent with Lucid’s public statements—that it was experiencing production delays from supply
11 chain ***and related logistics issues***, and its ability to achieve its targets remained at risk if mitigation
12 efforts did not pan out. (E.g., ¶¶ 332, 380; *supra* 5-6.) Allegations that it took Lucid longer than
13 anticipated to successfully mitigate the issues amounts to nothing more than nonactionable “fraud
14 by hindsight.” *Ronconi*, 253 F.3d at 430 n.12. To the extent Plaintiffs allege that Lucid could have
15 disclosed more details about the logistics issues or the progress of mitigation efforts, that was not
16 required: there is no “freestanding completeness requirement” under the securities laws. *Brody v.*
17 *Transitional Hosps. Corp.*, 280 F.3d 997, 1006 (9th Cir. 2002). Nor do companies engaged in the
18 “oft-tortuous path” of developing and building a new product—like Lucid—“have an obligation to
19 offer an instantaneous update of every internal development.” *Weston*, 29 F.4th at 620.

20 The only allegations that purport to contradict Lucid’s public statements are those of FE-2,
21 who vaguely alleges that Mr. Rawlinson told him just before the start of the Class Period that Lucid
22 would not hit its 2022 target. (¶¶ 288-89.) But, as explained further below (*infra* Point II.A), this
23 allegation—on which Plaintiffs effectively base their entire case—is contradicted by numerous
24 other allegations in the CC, is implausible on its face, and supplies no basis to plead fraud.

25 ***Capacity.*** Plaintiffs assert that statements that Lucid had “a factory scale[d] for 34,000
26 units a year” (¶ 358) and “capacity to fill all the orders received to date and more” (¶ 368) were
27 false or misleading because Lucid was not, in practice, able to produce so many vehicles, given the
28 logistics and other internal issues it faced (¶ 361). But total “capacity” to produce is not the same

1 as actual production. The CC itself concedes that Lucid had in fact “completed the first phase” of
 2 its factory in late 2020, giving it a maximum “production capacity of 34,000 vehicles per year.”
 3 (§ 101.) There is thus nothing false or misleading about the challenged statements. (## 4, 7.)

4 ***Reasons for Delay.*** The CC similarly fails to allege anything false or misleading about
 5 Defendants’ statements citing supply chain constraints as a reason for delays.⁶ Plaintiffs allege that
 6 the delays were *instead* caused by “internal logistics issues” (e.g., §§ 409, 415), but the CC itself
 7 concedes that supply chain challenges *did* impact production—including shortages of parts,
 8 manufacturers’ inability to efficiently produce parts to Lucid’s specifications, and long wait times
 9 for part orders. (See, e.g., §§ 246-47, 250-53, 276, 282, 298.) To the extent Plaintiffs assert that the
 10 challenged statements were misleading because Lucid *also* faced “internal logistics problems”
 11 (§ 339) and did not disclose those problems, that argument likewise fails for four reasons.

12 *First*, as the CC makes clear, the (purportedly undisclosed) “internal logistics problems”
 13 and (concededly disclosed) “supply chain constraints” were related. For example, so-called
 14 “design flaws” with the Lucid Air caused suppliers to be unable to produce “parts in the quantity
 15 and quality Lucid required” (§ 136), such that mostly completed vehicles sat idle, “waiting on the
 16 parts.” (§ 247.) That Plaintiffs characterize these issues as logistics problems instead of supply
 17 chain issues does not make it so. Indeed, industry professionals recognize that supply chain
 18 management includes “all logistics management activities.” (Ex. 14.) Plaintiffs are not entitled to
 19 their preferred characterizations on a motion to dismiss. See, e.g., *Anderson v. Clow*, 1994 WL
 20 525256, at *22 n.12 (S.D. Cal. June 29, 1994) (defendants “under no duty to ‘characterize the basic
 21 underlying facts with pejorative descriptions’” or “use the expression chosen by the Plaintiffs”),
 22 *aff’d sub nom. In re Stac Elecs. Sec. Litig.*, 89 F.3d 1399 (9th Cir. 1996).

23 *Second*, in any event, Defendants did disclose logistics issues, including Lucid-specific
 24 issues, as a distinct reason for delays and a risk for future delays. Defendants repeatedly warned
 25 that Lucid’s production targets faced risks from “global disruptions to supply chains *and logistics*”
 26 (§ 349), “supply chain *and logistics challenges*” (§ 350), “components shortages, our insistence on
 27 the highest quality parts, *and logistics issues*” (§ 378), and “bottlenecks” in “the supply chain, as

28 ⁶ ## 1-3, 5, 9-18, 20-21, 24-26, 29.

1 well as our own *internal plans to improve logistics*” (§ 380). *See also supra* 3-6; Point I.A.

2 *Third*, even assuming (counterfactually) that Lucid had not disclosed its logistics issues and
3 that such issues were unrelated to supply chain constraints, Plaintiffs’ claims would still fail.
4 “Section 10(b) and Rule 10b-5(b) do not create an affirmative duty to disclose any and all material
5 information.” *Weston*, 29 F.4th at 620. Even where a company discloses some information about
6 an issue, it need not disclose everything related to that issue—“even if investors would consider the
7 [omission] significant.” *In re Rigel Pharma., Inc. Sec. Litig.*, 697 F.3d 869, 880 n.8 (9th Cir.
8 2012); *accord Weston*, 29 F.4th at 615. Liability extends “only [to] misleading and untrue
9 statements, not statements that are incomplete.” *In re Tesla Motors, Inc. Sec. Litig.*, 75 F. Supp. 3d
10 1034, 1046 (N.D. Cal. 2014), *aff’d*, 671 F. App’x 670 (9th Cir. 2016); *accord Weston*, 29 F.4th at
11 619. Here, even if Lucid had not disclosed logistics-related issues, Defendants’ alleged statements
12 emphasizing global supply chain constraints as the cause of production delays would have been
13 neither misleading nor actionable because Lucid “did not need to address all relevant
14 considerations.” Ex. 12 at 25, *Crews v. Rivian Auto., Inc.*, No. 2:22-cv-01524-JLS-E, slip op. (C.D.
15 Cal. Feb. 16, 2023). Indeed, Lead Plaintiff’s contrary position here is virtually identical to the
16 rejected argument it tried to use against a different EV maker in *Crews*, where the court held that it
17 was not misleading to attribute a price increase to inflation and demand, even though the decision
18 was also based on undisclosed internal profitability forecasts, because “inflation and high demand
19 would be crucial factors guiding a decision to raise customer prices regardless of such forecasts.”
20 *Id.* Likewise here, even if the delays were also based on undisclosed logistics issues, that would
21 not render misleading Defendants’ accurate attribution of them to supply chain constraints.

22 *Fourth*, Plaintiffs supply no reasonable explanation why it would be material to investors to
23 know that any “internal logistics issues,” specifically, contributed to production delays. Plaintiffs
24 do not, for example, allege that these issues extended the delays beyond those caused by external
25 supply chain issues, or had any distinct impact on production targets. *See, e.g., Weston*, 29 F. 4th at
26 622 (rejecting “theory of deception” based on nondisclosure of “software bugs,” where complaint
27 failed to allege that those bugs delayed new version of software); *In re Nektar Therapeutics Sec.*
28 *Litig.*, 34 F.4th 828, 836 (9th Cir. 2022) (omission that study included outlier data was immaterial

1 where plaintiffs failed to articulate how data would have changed results); *McCormick v. Fund Am.*
 2 *Cos.*, 26 F.3d 869, 884 (9th Cir. 1994) (omission of sale details, where investor was told of
 3 possibility and consequences of sale, was immaterial); *City of Royal Oak Ret. Sys. v. Juniper*
 4 *Networks, Inc.*, 880 F. Supp. 2d 1045, 1061, 1064-65 (N.D. Cal. 2012) (dismissing claims for
 5 failure to supply “analytical link” between alleged issues and impact on targets).

6 **B. Projected Vehicle Targets and Statements About Lucid’s Ability to Achieve**
 7 **Those Targets Are Nonactionable Forward-Looking Statements.**

8 As an additional basis for dismissal, nearly all challenged statements are classic forward-
 9 looking statements protected by the PSLRA’s safe harbor. 15 U.S.C. § 78u-5(c). Forward-looking
 10 statements are protected if they are either “accompanied by cautionary language” or “made without
 11 actual knowledge that [the statement] is false or misleading.” *Wochos*, 985 F.3d at 1190. These
 12 prongs are disjunctive: allegations “that the company knew that the announced forward-looking
 13 objective was unlikely to be achieved” do not undermine protection for statements “accompanied
 14 by meaningful cautionary statements.” *Id.*

15 Here, the challenged statements about Lucid’s production targets, its being “on track” to
 16 achieve them, and future production capacity are all forward-looking.⁷ *See Wochos*, 985 F.3d at
 17 1192; *In re Talis Biomed. Corp. Sec. Litig.*, 2022 WL 17551984, at *25 (N.D. Cal. Dec. 9, 2022)
 18 (statement that manufacturing capacity “on track” was protected). Indeed, statements that were
 19 made in earnings calls and releases, securities filings, and certain interviews were expressly
 20 identified as forward-looking.⁸ *See supra* 4-5.⁹ But even without such identification, *all* statements

21 ⁷ ## 1-4, 6-10, 13, 15, 19, 22-23, 25-30.

22 ⁸ ## 1-3, 8-10, 13, 15, 19, 22-23, 25-29.

23 ⁹ None of the 7 challenged statements that were *not* made in earnings calls or releases or SEC
 24 filings is actionable. The safe harbor protects Mr. Rawlinson’s alleged statement to Al Arabiya
 25 News regarding production targets because he flagged it as forward-looking and accompanied it
 26 with cautionary language. (# 29 (“*looking forward* to hitting” targets, subject to overcoming
 27 “global supply chain challenges” and “our near-term challenges with commodity goods”).) For
 28 similar reasons, the safe harbor also protects three alleged statements by nondefendant employees
 concerning Lucid’s ability to achieve production targets, as explained in this Point. (## 6-7, 30;
supra 8-9.) Additionally, those statements are nonactionable because (i) they are opinions, (ii) the
 CC contains no scienter allegations as to the nondefendant speakers, and (iii) Plaintiffs do not plead
 facts that would make one statement concerning factory capacity misleading. *Infra* Points I.C,
 II.A-B. The other three statements, which Mr. Rawlinson allegedly made in interviews with CNBC
 and Reuters, are protected by the safe harbor, nonactionable opinions, and/or non-misleading
 statements about supply chain or factory capacity issues. (## 4-5, 17; *see infra* Points I.C-D.)

1 fall within the first prong of the safe harbor because they “are forward-looking on their face.”
2 *Police Ret. Sys. of St. Louis v. Intuitive Surgical, Inc.*, 759 F.3d 1051, 1058 (9th Cir. 2014).

3 These challenged statements, moreover, were all accompanied by “meaningful cautionary
4 statements.” 15 U.S.C. § 78u-5(c)(1)(A)(i). “Meaningful” cautionary language need not warn of
5 the “exact risk” that transpires, *Bodri v. GoPro, Inc.*, 252 F. Supp. 3d 912, 931 (N.D. Cal. 2017),
6 nor follow or immediately precede the forward-looking statements, *see Intuitive Surgical*, 759 F.3d
7 at 1059-60. The language must simply “identify[] important factors that could cause actual results
8 to differ materially from those in the forward-looking statement[s],” or, for oral statements, either
9 state that the “actual results might differ materially” or point investors to a document that contains
10 “additional information concerning factors” that could lead actual results to differ. 15 U.S.C.
11 §§ 78u-5(c)(1)(A)(i), (c)(2)(A)-(B). Lucid fully complied with these statutory standards.

12 Plaintiffs concede that Defendants identified Lucid’s production targets as subject to various
13 risks at the same time—often in the same sentences—as the projections. (*E.g.*, ¶¶ 349-50 (targets
14 “not without risk” from “supply chain and logistics challenges”); ¶ 380 (targets subject to supply
15 chain “bottlenecks” and Lucid’s “plans to improve logistics”).) Further, in its earnings calls and
16 releases, Lucid cautioned that its projections and other forward-looking statements “are subject to
17 numerous risks, uncertainties and other factors that could cause actual results to differ” and referred
18 investors to the risk factors in its SEC filings (*e.g.*, Ex. 5 at 4; Ex. 10 at 3), which disclosed dozens
19 of pages of risks (*see supra* 4-6). Such cautionary statements are substantially similar to those that
20 the Ninth Circuit has repeatedly upheld as adequate under the safe harbor. *See, e.g., Intuitive*
21 *Surgical*, 759 F.3d at 1059–60 (directing investors to risks in SEC filings at start of earnings calls
22 sufficient for safe harbor); *In re Cutera Sec. Litig.*, 610 F.3d 1103, 1108 (9th Cir. 2010) (same).

23 Moreover, while Defendants did not have to enumerate the “exact” risks of which the CC
24 complains, they did so. The risk factors expressly warned of the risks that the CC claims delayed
25 production: inventory management issues, the inability to effectively warehouse and transport parts
26 to the plant, delays in sourcing components that met quality standards, and bottlenecks resulting
27 from Lucid’s lack of experience in manufacturing at scale (*i.e.*, logistics issues). *See supra* 3-4.
28 Courts routinely hold similarly specific disclosures sufficient to invoke the safe harbor. *See*

1 *Cutera*, 610 F.3d at 1112; *Intuitive Surgical*, 759 F.3d at 1059-60; *Bodri*, 252 F. Supp. 3d at 931.

2 The safe harbor’s second, actual-knowledge prong independently protects Defendants’
 3 forward-looking statements—irrespective of the cautionary language used. Plaintiffs have not
 4 alleged facts that, if true, would show that any of the speakers actually knew that each challenged
 5 statement was false or misleading when made. *See* 15 U.S.C § 78u-5(c)(1)(B); *Wochos*, 985 F.3d
 6 at 1190. Plaintiffs primarily attempt to plead Defendants’ knowledge through the FE allegations.
 7 But, as discussed below, those allegations do not render any Defendant’s statements false or
 8 misleading, much less show “actual knowledge” of falsity. *See infra* Point II.A.¹⁰

9 C. The Alleged Statements Are Nonactionable Opinions.

10 The challenged projections, along with statements about Defendants’ level of confidence in
 11 achieving them, the quality of Lucid’s products, and the sufficiency of its mitigation plans for
 12 dealing with supply chain and logistical difficulties are also all nonactionable under the securities
 13 laws as statements of opinion.¹¹ *See In re Finjan Holdings, Inc.*, 58 F.4th 1048, 1055-56 (9th Cir.
 14 2023) (projections and expressions of confidence in projections were statements of opinion); *In re*
 15 *Atossa Genetics Inc. Sec. Litig.*, 868 F.3d 784, 801 (9th Cir. 2017) (same for statements about
 16 whether “FDA clearance risk” was “achieved,” *i.e.* mitigated); *In re Pivotal Sec. Litig.*, 2020 WL
 17 4193384, at *10-11 (N.D. Cal. July 21, 2020) (same for statements about product quality).

18 Such opinion statements are actionable only if the speakers: (i) subjectively disbelieved
 19 them, and the belief is objectively incorrect; (ii) embedded in them facts the speakers knew were
 20 untrue; or (iii) omitted information needed to keep them from being misleading. *City of Dearborn*
 21 *Heights Act 345 Police & Fire Ret. Sys. v. Align Tech., Inc.*, 856 F.3d 605, 615-16 (9th Cir. 2017)
 22 (citing *Omnicare, Inc. v. Laborers Dist. Council Const. Indus. Pension Fund*, 575 U.S. 175, 185-86
 23 (2015)). Opinion speakers need not furnish every fact that may undercut their opinions because an
 24 opinion “is not necessarily misleading when an issuer knows, but fails to disclose, some fact cutting
 25

26 ¹⁰ Instead, the FEs’ allegations about Lucid’s warehouse operation and inventory management, at
 27 best, amount to complaints of purported mismanagement, which do not provide the basis for a
 28 Section 10(b) claim. *See Santa Fe Indus., Inc. v. Green*, 430 U.S. 462, 477 (1977); *Colin v. Onyx*
Acceptance Corp., 31 F. App’x 359, 361 (9th Cir. 2002).

¹¹ ## 1-16, 18-19, 21-30.

1 the other way.” *Omnicare*, 575 U.S. at 189. Instead, speakers are only tasked with making
2 statements that “fairly align[ed] with the information in the issuer’s possession at the time.” *Id.*
3 Plaintiffs’ allegations fail under all three *Omnicare* prongs.

4 With respect to the first *Omnicare* prong, Plaintiffs fail to satisfy either the subjective or
5 objective falsity components. *See Finjan*, 58 F.4th at 1056; *Dearborn Heights*, 856 F.3d at 615-16.
6 As discussed below, *see infra* Point II, Plaintiffs do not allege any particularized and well-pled facts
7 to raise a plausible inference that Defendants or the two nondefendant employees subjectively
8 disbelieved their statements when made or knew they were false. Nor does the CC contain any
9 allegations supporting an inference of objective falsity. With no allegations about the data or
10 assumptions that Defendants used in making the challenged statements, there can be no inference
11 that Defendants “intentionally disregarded” the alleged warehouse and production issues or that
12 their projections process was “so unreasonable as to amount to fraud.” *Dearborn Heights*, 856 F.3d
13 at 618. The CC likewise falls short of alleging a misstatement of opinion under *Omnicare*’s second
14 and third prongs. As demonstrated *supra* Point I.A, Plaintiffs do not allege any particularized facts
15 that would show that Defendants embedded any untrue facts in their opinions or omitted any
16 material information about the bases for their opinions.

17 **D. Statements of General Optimism About Performance Are Puffery.**

18 Many of the alleged statements are independently nonactionable as corporate puffery.
19 “Transparently aspirational” statements, *Retail Wholesale & Dep’t Store Union Loc. 338 Ret. Fund*
20 *v. Hewlett-Packard*, 845 F.3d 1268, 1278 (9th Cir. 2017), and “vague statements of optimism like
21 ‘good,’ ‘well-regarded,’ or other feel good monikers,” are not actionable because “professional
22 investors, and most amateur investors as well, know how to devalue the optimism of corporate
23 executives,” *Intuitive Surgical*, 759 F.3d at 1060. Many of the challenged statements fall into this
24 category, including that Lucid was “confident,” “committed,” or “nicely on track” to hit production
25 targets and continued to “deliver against [its] timeline” (## 1-2, 19, 23); that it was committed to
26 “the highest standard of quality” and “was in an enviable position” (## 3, 6; *see also* ## 9, 12, 16,
27 30); and that it continued to “work hard” to address production difficulties, was “optimistic” that it
28 would resolve them, and was well-positioned to “execute successfully” (## 13, 15, 18, 20).

1 Courts in the Ninth Circuit have consistently found such statements to be nonactionable.
 2 *See, e.g., Waterford Twp. Police v. Mattel, Inc.*, 321 F. Supp. 3d 1133, 1148 & n.1 (C.D. Cal. 2018)
 3 (statements about making “good progress across all of our strategic priorities,” “gain[ing]
 4 confidence with our results,” and “believ[ing] we are well positioned to meet our . . . revenue
 5 objective”), *aff’d sub nom. Castro v. Mattel, Inc.*, 794 F. App’x 669 (9th Cir. 2020); *In re*
 6 *LeapFrog Enters., Inc. Sec. Litig.*, 527 F. Supp. 2d 1033, 1050 (N.D. Cal. 2007) (statements that
 7 “[t]his is going to be a very big second half for us” and that “[w]e are also strengthening our
 8 operations group, supply-chain management system and warehousing and logistics functions”); *In re*
 9 *Fusion-io, Inc. Sec. Litig.*, 2015 WL 661869, at *15 (N.D. Cal. Feb. 12, 2015) (statements about
 10 being “pleased with the momentum we have,” making “excellent progress” on product road map,
 11 and being “pleased with our execution” and “well positioned to capture a significant share of the
 12 opportunity”); *In re Solarcity Corp. Sec. Litig.*, 274 F. Supp. 3d 972, 995 (N.D. Cal. 2017)
 13 (statements that “[w]e are well on our way to achieve our 1 million customer goal” and “I think
 14 we’ll see a lot more growth in Q3”); *Kipling v. Flex Ltd.*, 2020 WL 2793463, at *14 (N.D. Cal.
 15 May 29, 2020) (statement that strategy “remains firmly on track”); *see also In re Cloudera, Inc.*,
 16 2021 WL 2115303, at *13-14 (N.D. Cal. May 25, 2021) (statements “touting” product quality).

17 II. PLAINTIFFS FAIL TO PLEAD SCIENTER

18 The complaint should also be dismissed because Plaintiffs fail to plead with particularity
 19 facts giving rise to “a strong inference” of scienter—*i.e.*, an inference that is “cogent and at least as
 20 compelling as any opposing inference one could draw from the facts alleged.” 15 U.S.C. § 78u-
 21 4(b)(2)(A); *see Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 314, 324 (2007).

22 A. Plaintiffs’ FE Allegations Do Not Give Rise to a Strong Inference of Scienter.

23 Plaintiffs rely primarily on allegations from the FEs to plead scienter, but those allegations
 24 do not support an inference that anything Defendants said was false—let alone a strong inference
 25 that Defendants made those statements knowingly or recklessly. A complaint relying on statements
 26 from CWs to establish scienter must pass two hurdles to satisfy the PSLRA: (i) the CW “must be
 27 described with sufficient particularity to establish their reliability and personal knowledge”; and
 28 (ii) the statements “must themselves be indicative of scienter.” *Zucco Partners LLC v. Digimarc*

1 *Corp.*, 552 F.3d 981, 995 (9th Cir. 2009). The FE allegations fail to meet those requirements here.
 2 Plaintiffs do not allege that the FEs were in a position to provide facts about Defendants’
 3 state of mind. The FEs worked in narrow capacities within the Company’s warehouse and plant,
 4 with little to no direct contact with either Mr. Rawlinson or Ms. House and no involvement at all in
 5 setting vehicle production targets. (¶¶ 57-66.)¹² The CC does not establish that they had any basis
 6 to know what Mr. Rawlinson or Ms. House (or the other nondefendant speakers) actually believed
 7 about the production targets.¹³ The FEs largely complain about assorted logistics problems with
 8 inventory tracking, parts storage, and parts delivery to the factory, but “[p]roblems and difficulties
 9 are the daily work of business people,” and their existence does not “make a lie of any of the”
 10 challenged statements. *Ronconi*, 253 F.3d at 434. Indeed, with three exceptions, *none* of the FEs
 11 are alleged to have even interacted with Mr. Rawlinson or Ms. House—and the three that allegedly
 12 did interact with them fail to allege facts sufficient to demonstrate their scienter.

13 As to Ms. House, only FE-2 and FE-3 allege anything purportedly related to her state of
 14 mind. FE-2 allegedly “understood” that Ms. House “was aware [in or around July 2021] that
 15 Lucid’s inventory count was incorrect.” (¶¶ 168-69.) But that allegation is too conclusory to
 16 withstand the PSLRA’s heightened pleading standards. *See Metzler*, 540 F.3d at 1067-68
 17 (allegations that defendants “were regularly made aware of” enrollment figures “lack the specifics
 18 required to establish a ‘strong inference of scienter’”). FE-2’s allegation, moreover, appears to be
 19 based entirely on Ms. House’s alleged denial of his request to perform a full physical inventory
 20 count in July 2021, months before the start of the Class Period, because “management did not want
 21 to impact Lucid’s ‘books’” at that time. (¶ 429.) Plaintiffs do not explain why denying a physical
 22 inventory—at a time that is temporally disconnected from the challenged statements—remotely
 23

24 ¹² FEs 1 through 4 worked in logistics (¶¶ 57-60); FE-5 managed inventory (¶ 61); FE-6 and FE-8
 25 trained new hires (¶¶ 62, 64); FE-7 worked on the quality inspection team (¶ 63); FE-9 updated
 26 software on certain parts (¶ 65); and FE-10—who was only “occasionally physically present” at the
 plant—was responsible for the dimensional engineering and configuration of the Lucid Air (¶ 66).

27 ¹³ The CC does not contain *any* allegations of scienter with respect to the nondefendant employees
 28 who allegedly made false and misleading statements. (## 6-7, 30; *see* ¶¶ 364-69, 417-19.) This
 gap is fatal to Plaintiffs’ claims based on these statements, because the PSLRA generally requires
 plaintiffs “to plead scienter with respect to those individuals *who actually made* the false
 statements.” *Glazer Cap. Mgmt., LP v. Magistri*, 549 F.3d 736, 745 (9th Cir. 2008).

1 suggests scienter, as opposed to the more compelling and pragmatic conclusion that it was too
2 costly, time-consuming, or disruptive. *See Prodanova v. H.C. Wainwright & Co.*, 993 F.3d 1097,
3 1109 (9th Cir. 2021) (unexplained allegations not indicative of scienter). Nor does FE-3’s assertion
4 that he was copied on a May 2022 email to Ms. House, requesting her approval to scrap \$22 million
5 in parts (§ 211), plead scienter or, indeed, even falsity: Plaintiffs do not allege that a need to scrap
6 parts rendered false or misleading (or, indeed, bore any relationship to) Lucid’s production targets
7 (or any challenged statement), much less that Ms. House or anyone else *knew* that scrapping parts
8 would preclude Lucid from hitting its targets. *See Zucco*, 552 F.3d at 999 (“Mere knowledge of
9 alternative scrap rates . . . or disagreement among employees with regard to the proper scrap rate, is
10 not enough to establish a cogent or compelling scienter allegation . . .”).

11 As for Mr. Rawlinson, FE-1 allegedly told him that Lucid would “never meet its production
12 goals,” and that Mr. Rawlinson “reacted by nodding his head.” (§ 291.) But the Ninth Circuit
13 rejected similar allegations in *Wochos*. There, the court determined that the complaint had not
14 sufficiently alleged that the head of a different EV manufacturer knew that his weekly vehicle
15 production target was false, notwithstanding allegations that two employees and suppliers had told
16 him “that the goal . . . was impossible to achieve.” 985 F.3d at 1194. The court determined that
17 these allegations failed to plead that “Defendants adopted the conservative timeline for production
18 on which these employees’ pessimism was based” or “*shared* that gloomy view.” *Id.* (emphasis in
19 original). The assertion that Mr. Rawlinson responded to FE-1 by nodding his head adds nothing:
20 a head nod does not necessarily indicate agreement (as opposed to acknowledgment or a sign that
21 the recipient is listening), and as explained below, Plaintiffs offer no plausible, well-pled allegation
22 that Mr. Rawlinson actually agreed with FE-1 or otherwise shared in the same pessimistic belief.

23 Plaintiffs’ only other FE allegations regarding Mr. Rawlinson’s purported disbelief in
24 Lucid’s publicly stated production forecasts come from FE-2—who allegedly recalls “various”
25 occasions “in October 2021” when Mr. Rawlinson (and other executives) said that “Lucid was
26 going to miss its year-end vehicle production targets for 2021, 2022, and 2023” (§ 288), including
27 one unidentified meeting in “October 2021 or the first week of November 2021,” in which
28 Mr. Rawlinson supposedly said, confidentially, that “Lucid would make less than 10,000 vehicles

1 in 2022,” which he shared “so [the employees] would not kill themselves to meet targets that Lucid
2 would miss” (¶ 289). But those allegations likewise do not support a strong inference of scienter.

3 *First*, they lack the necessary detail. FE-2 cannot recall exactly when Mr. Rawlinson
4 supposedly made these remarks (only that it was sometime in October or early November 2021),
5 exactly what he said (ambiguously describing the comments as “something to the effect of”), or
6 exactly who he said it to (only that it was to unidentified employees during a nondescript “smaller
7 group meeting” or at various other types of meetings). (¶¶ 288-89.) Courts reject CW allegations
8 where, as here, they fail to provide the “context surrounding when, why, or how the[] individuals
9 provided the CW with information.” *Talis*, 2022 WL 17551984, at *26 n.16 (collecting cases); *see*
10 *also Carr v. Zosano Pharma Corp.*, 2021 WL 3913509, at *10 (N.D. Cal. Sept. 1, 2021) (CW
11 “allegations do not suffice to plead scienter if they lack significant detail” (citing *Nguyen v.*
12 *Edologix, Inc.*, 962 F.3d 405, 409 (9th Cir. 2020))).

13 *Second*, the timing of FE-2’s allegations is simply implausible in light of the CC’s other
14 allegations, rendering his account entirely unreliable. FE-2 fails to offer any explanation for how
15 Mr. Rawlinson could possibly have concluded by October or November 2021—just after Lucid
16 started production (¶ 81)—that Lucid would make under 10,000 vehicles (less than half its public
17 forecast) by the end of 2022, ***over 13 months later***. At the time, Lucid was still focused on
18 achieving its ***2021*** production target by the end of Q4, and was concededly taking steps to address
19 its supply chain and inventory issues. (*E.g.*, ¶¶ 147-49.) The idea that, in this state of flux, Lucid
20 would even have had information from which it could determine—two months before 2022 even
21 began—that it would not meet its 2022 year-end production target is implausible on its face. *See In*
22 *re NVIDIA Corp. Sec. Litig.*, 768 F.3d 1046, 1057 (9th Cir. 2014) (CW-based allegation that
23 defendants had identified hardware problems “in early 2007 is implausible when considered with
24 Plaintiffs’ other allegations”). Moreover, even if Lucid somehow had made that determination by
25 November 2021, it is inexplicable why Lucid (i) would have delayed more than two months, until
26 January 2022, to implement additional steps to try to address inventory issues at its warehouse, as
27 Plaintiffs allege (¶ 183), or (ii) continued to project a supposedly unachievable 12-14,000 vehicles
28 even after it lowered its production target on February 28, 2022, as opposed to just reducing the

1 target to under 10,000 (as it did in August 2022), which it purportedly knew was in reach (§ 312).
2 “The implausibility of the timing in [FE-2’s] account of events further detracts from any inference
3 of scienter.” *NVIDIA*, 768 F.3d at 1058 (unexplained delay in taking remedial steps undermined
4 CW’s allegation that defendant knew earlier of product problems).

5 *Third*, FE-2’s allegation is implausible for the additional reason that it is at odds with what
6 the CC alleges was Lucid’s most important priority: Plaintiffs allege that increasing the volume
7 and speed of vehicle production was “critical” to Lucid’s business plan, Defendants were “acutely
8 aware” of the need to demonstrate Lucid’s ability to manufacture at scale, and Mr. Rawlinson
9 repeatedly emphasized it as his “laser focus” and “top priority.” (§§ 80-84; *see generally* §§ 79-96.)
10 In the face of these contradictory allegations, FE-2’s assertion that Mr. Rawlinson told a small
11 group of factory employees that Lucid would not meet its production target for 2022 so “they
12 would not kill themselves to meet targets that Lucid would miss” (§ 289) makes no sense and
13 should not be credited. If, as the CC alleges, Lucid’s ability to meet its target singularly meant the
14 difference between whether Lucid “successfully navigated” its growth phase or “ran out of money”
15 (§ 91), it would have been self-defeating and illogical for Mr. Rawlinson to tell employees not to
16 even try. A single, anonymous FE’s allegation that Mr. Rawlinson would ever have said something
17 so contrary to Lucid’s economic interests and his own “is too contradictory to be compelling,” and
18 thus falls well short of the PSLRA’s standards of plausibility and reliability for allegations
19 attributed to CWs. *See Metzler*, 540 F.3d at 1069 (“[A] plaintiff cannot avoid dismissal by reliance
20 on an isolated statement that stands in contrast to a host of other insufficient allegations.”).¹⁴

21 **B. Plaintiffs’ Additional Scienter Allegations Fail as a Matter of Law.**

22 Plaintiffs additionally attempt to plead scienter: (i) by alleging Defendants had motive and
23 opportunity to defraud, and (ii) through the “temporal proximity” between the challenged
24 statements and subsequent adjustments to Lucid’s targets, but those arguments likewise fail.

25 ¹⁴ Similarly, FE-2’s allegation that Mr. Rawlinson intimated that he should keep confidential the
26 supposed information that Lucid would not meet its 2022 production target is in tension with the
27 CC’s allegations that Mr. Rawlinson *publicly disclosed* the risk that Lucid would not hit its 2022
28 production target if global supply chain and logistics constraints continued. If Mr. Rawlinson had
wished to conceal the risk that Lucid might not achieve its production target, then it makes no sense
for him to have affirmatively disclosed it. *See Zucco*, 552 F.3d at 999 (rejecting CW allegation that
was “simply incongruous with [defendant’s] public actions as alleged in the complaint”).

1 “[M]ere motive and opportunity” allegations are insufficient to plead a strong inference of
 2 scienter. *Prodanova*, 993 F.3d at 1108. The alleged motives here are also generic and implausible.
 3 Plaintiffs allege that Defendants were motivated to inflate Lucid’s stock price to raise needed funds
 4 (§§ 8, 450), but “allegations of routine corporate objectives such as the desire to obtain good
 5 financing . . . are not, without more, sufficient to allege scienter.” *Rigel*, 697 F.3d at 884; *see also*
 6 *Webb v. Solarcity Corp.*, 884 F.3d 844, 856 (9th Cir. 2018). Plaintiffs fare no better with respect to
 7 the motives of the individual Defendants. Indeed, the CC alleges no facts at all with respect to
 8 Ms. House’s motives. As to Mr. Rawlinson, they allege that he wanted to inflate Lucid’s stock
 9 price to trigger the vesting of performance-based RSUs. (§§ 444-48.) But a desire to increase
 10 personal compensation is insufficient. *See, e.g., Rigel*, 697 F.3d at 884; *In re Calpine Corp. Sec.*
 11 *Litig.*, 288 F. Supp. 2d 1054, 1087 (N.D. Cal. 2003). In any event, Plaintiffs do not and cannot
 12 allege that these RSUs—which had a five-year vesting period (Ex. 13 at 53)—were in danger of
 13 expiring or that Mr. Rawlinson sold any stock during the Class Period. *See Rigel*, 697 F.3d at 884-
 14 85 (no scienter where no defendants sold stock).

15 Nor does any “temporal proximity” between statements reiterating Lucid’s production
 16 targets and subsequent reductions to those targets (§ 441) suffice to plead scienter. Such allegations
 17 can, at most, “bolster” an otherwise strong inference of scienter; they cannot establish scienter.
 18 *Gammel v. Hewlett-Packard Co.*, 905 F. Supp. 2d 1052, 1076-77 (C.D. Cal. 2012). Here, where
 19 Plaintiffs fail to plead facts sufficient to raise a strong inference that Defendants knowingly lied, the
 20 more plausible inference to draw is that Defendants believed Lucid would achieve certain results
 21 but were later proven wrong. *See Mosco v. Motricity, Inc.*, 649 F. App’x 526, 529 (9th Cir. 2016).

22 **III. PLAINTIFFS’ SECTION 20(a) CLAIM ALSO FAILS**

23 Because Plaintiffs have failed to plead a primary violation of Section 10(b), their Section
 24 20(a) claim also fails. *See Dearborn Heights*, 856 F.3d at 623.

25 **CONCLUSION**

26 For the foregoing reasons, Defendants respectfully request that the Court dismiss the
 27 Consolidated Complaint with prejudice.

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