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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

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| SECURITIES AND EXCHANGE COMMISSION,<br>Plaintiff,<br>v.<br>MANISH LACHWANI,<br>Defendant. | Case No. _____<br>**COMPLAINT** |

Plaintiff Securities and Exchange Commission ("the Commission" or "the SEC") alleges:

**SUMMARY OF THE ACTION**

1. From at least 2018 through 2020, Manish Lachwani engaged in a fraudulent scheme to propel the valuation of his Silicon Valley technology start-up, HeadSpin, Inc., to over $1 billion by falsely inflating the company's key financial metrics and doctoring its internal sales records. Lachwani then used HeadSpin's inflated valuation and financial numbers to deceive investors into pouring approximately $80 million into the company between 2018 and 2020, and to enrich himself through the offer and sale of approximately $2.5 million of his personal HeadSpin stock.

2. HeadSpin made virtually all of its revenue by charging customers fees to use its hardware and software products. To create the illusion of strong and consistent growth, Lachwani, who controlled all important aspects of HeadSpin's financials and sales operations, falsely inflated the values of numerous customer deals that, in reality, were much smaller. He also fraudulently treated uncommitted deal amounts that he had discussed with customers as if they were guaranteed future payments. He concealed this inflation by creating fake invoices and altering real invoices to make it appear as though customers had been billed higher amounts.

3. Lachwani's fraudulent actions increased HeadSpin's revenue-related financial measures, which, in turn, fueled the company's valuation upward. In fall of 2018, ahead of its Series B fundraising round, HeadSpin was valued at approximately half a billion dollars. When Lachwani sold his personal stock in around May 2019, that valuation had climbed about 50 percent to approximately $750 million. Less than six months later, in fall of 2019, HeadSpin's valuation for its Series C fund raise had jumped to approximately $1.1 billion and entered so-called "unicorn" status.

4. Lachwani knowingly or recklessly provided these lies about HeadSpin's valuation and its seeming financial success to prospective investors. He made numerous false statements that were designed to convince investors that HeadSpin had hundreds of customers, including many of Silicon Valley's biggest and most high-profile companies, signed up to long-term contracts totaling tens of millions of dollars per year. Investors invested millions of dollars in HeadSpin based on Lachwani's misrepresentations.

5. Lachwani's fraud unraveled in spring of 2020, following an internal investigation. Lachwani was forced to resign as CEO, and HeadSpin revised its valuation dramatically downward from the $1.1 billion claimed during the Series C round to approximately $300 million.

6. By his actions, Lachwani violated the antifraud provisions of the federal securities laws. Specifically, Lachwani violated 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

7. The SEC requests, among other things, that the Court: (i) permanently enjoin Lachwani from further violating the federal securities laws as alleged in this complaint; (ii)

permanently enjoin Lachwani from participating in the issuance, purchase, offer, or sale of any security; (iii) prohibit Lachwani from acting as an officer or director of a publicly traded company; and (iv) order Lachwani to pay civil monetary penalties.

## JURISDICTION AND VENUE

8. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

9. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

10. Lachwani, directly or indirectly, made use of the means and instruments of interstate commerce or of the mails in connection with the acts, transactions, practices, and courses of business alleged in this complaint.

11. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)]. Acts, transactions, practices, and courses of business that form the basis for the violations alleged in this complaint occurred in this District. Lachwani met with and solicited prospective investors in this District, and offers and sales of securities took place in this District.

12. Under Civil Local Rule 3-2(e), this civil action should be assigned to the San Jose Division because a substantial part of the events or omissions that give rise to the claims alleged herein occurred in Santa Clara County, where HeadSpin's principal place of business is located.

## DEFENDANT

13. **Manish Lachwani**, age 45, resides in Los Altos, California. He served as HeadSpin's Chief Executive Officer until he stepped down in around May 2020. Lachwani controlled HeadSpin's business functions and operations from its formation in about 2015 through his tenure as CEO. Lachwani sold a portion of his own HeadSpin stock during an offering in around May 2019. During the Commission's investigation, Lachwani declined to produce any documents concerning the investigation on the basis of his Fifth Amendment privilege against self-incrimination.

## RELATED ENTITY

14. **HeadSpin, Inc.** is a Delaware corporation with its principal place of business in Palo Alto, California. HeadSpin provides customers with hardware and software tools to test their mobile software applications across the world. In 2020, after Lachwani's fraud was uncovered, HeadSpin reduced its valuation by more than $800 million and returned approximately 70% of principal to investors in the Series B and C funding rounds. However, some investors retained their shares in HeadSpin, and the company remains operational.

## FACTUAL ALLEGATIONS

### I. HeadSpin Sells Customers Tools for Testing Mobile Apps.

15. Lachwani co-founded HeadSpin in 2015 to provide hardware and software tools that allow customers to test their mobile software applications, or "apps," and ensure that their apps work on different operating systems as well as various internet and cellular data networks. Prior to HeadSpin, Lachwani co-founded another start-up technology company that was sold to a major Silicon Valley company in 2014, and he also served as Chief Technology Officer for a prominent public company in the mobile gaming industry, among other roles.

16. HeadSpin provided its customers access to mobile devices located all over the world. Customers were then able to use HeadSpin's proprietary software to test their apps on these devices across different networks. Typically, HeadSpin charged a one-time set-up fee as well as recurring fees for use of the devices and software.

17. HeadSpin sold its products and services in two ways. First, HeadSpin entered into direct agreements with corporate customers. Second, HeadSpin worked with third-party resellers, who acted as middlemen to market and sell HeadSpin's products and services to corporate customers.

18. In some cases, customers, such as the third-party resellers, signed non-binding agreements with HeadSpin that set forth the products and services they planned to purchase and sometimes listed the maximum amount they would spend on those items. However, the customer did not incur a commitment to pay HeadSpin until it submitted an order and HeadSpin, in response, charged the customer by sending an invoice.

**II. Lachwani Engaged in a Fraudulent Scheme to Inflate HeadSpin's Financials in Order to Drive Up Its Valuation.**

19. Beginning at least in about 2018, Lachwani engaged in a fraudulent scheme to inflate HeadSpin's financial records in order to achieve high valuations of the company that would attract investors.

20. Lachwani understood that the amount of the valuation depended, in large part, on a key financial metric called "annual recurring revenue," or "ARR," as well as ARR growth over time. ARR is a measure of the total revenue expected per year from committed customers with signed contracts. The metric is commonly used by software companies like HeadSpin that charge customers recurring fees to use their products. A growing ARR shows that a company is successfully signing up new customers and/or expanding the deals it already has with existing customers.

21. Lachwani inflated HeadSpin's ARR by falsely increasing the values of several existing customer deals of all sizes, ranging from big deals with Silicon Valley heavyweights to low dollar-value deals with smaller companies, and relying on uncommitted amounts from non-binding agreements with other customers. He entered the fabricated amounts into the company's detailed ARR-tracking Spreadsheet that he alone controlled. For example, in about 2018, Lachwani sent an investor a version of the ARR Spreadsheet that claimed a reseller ("Customer 1") was contributing approximately $1 million in ARR. In reality, Customer 1 and Lachwani had signed a non-binding agreement that, among other things, set a maximum cap of $1.215 million on its purchases over two years from HeadSpin. Importantly, Customer 1 was not obligated to pay anything until HeadSpin sent invoices at a later date. In the end, Customer 1 only paid HeadSpin approximately $500,000 over two years—far less than the maximum cap.

22. In other instances, Lachwani fabricated or altered invoices to provide post-hoc justifications to other HeadSpin employees for the inflated ARR amounts. For example, from 2018 through 2020, Lachwani falsely claimed that a major San Francisco-based ride share company ("Customer 2") had agreed to pay HeadSpin about $1.44 million per year. In truth, Customer 2 made a single purchase worth $720,000 in 2018, and did not make a long-term commitment. To bridge the gap between reality and his false claims, Lachwani concocted a fake invoice covering the remaining

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