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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MARC S. SCHELSEL and
SCWORX CORP.,

Defendants.

2:22-cv-03287 (____)

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Securities and Exchange Commission (the “Commission”) [100 F Street, N.E., Washington, DC 20549] for its Complaint against Defendants SCWorx Corporation (“SCWorx” or the “Company”) [590 Madison Avenue New York, NY 10022] and Marc S. Schessel (“Schessel”) [4 Jacobs Lane, New Paltz, NY 12561], alleges as follows:

SUMMARY

1. In April 2020, during the outbreak of the coronavirus disease 2019 (“COVID-19”) pandemic, NASDAQ-listed securities issuer SCWorx Corp. (ticker:

WORX) and its Chief Executive Officer, Schessel, issued false and misleading press releases and other statements claiming that SCWorx would supply millions of COVID-19 test kits to an online healthcare company based in Fairfield, New Jersey (“Telehealth Company”), in exchange for hundreds of millions of dollars. In reality, not only was there was no agreement for SCWorx to provide COVID-19 test kits to Telehealth Company, SCWorx did not even have a legitimate supplier for the COVID-19 test kits.

2. Defendants’ false and misleading statements to investors began on April 13, 2020, when SCWorx issued a press release falsely stating that it had a “committed purchase order” from Telehealth Company to provide two million COVID-19 test kits “with provision for additional weekly orders of two million units for 23 weeks, valued at \$35 million per week” – totaling \$840 million. Following the press release, SCWorx’s stock price surged more than 425 percent to close at \$12.02, up from \$2.25 at the close of the prior trading day, on volume of approximately 96.2 million shares, more than 900 times the stock’s prior three-month average daily volume.

3. The press release did not state who would supply SCWorx with the test kits, but included a link to the website of the supposed supplier of test kits, Supplier Company, an Australia-based entity that purportedly sold “advanced sports and aesthetic medical equipment.”

4. Schessel and SCWorx knew or were reckless in not knowing two critical facts: (1) there was no “committed purchase order” or purchase agreement between SCWorx and Telehealth Company; and (2) Supplier Company was not a legitimate supplier for the COVID-19 test kits that SCWorx would supposedly provide to Telehealth Company.

5. On April 14, 2020, the day after the press release was issued, counsel for Telehealth Company notified Schessel and SCWorx in writing that the “committed purchase order” that Defendants had touted in the press release was actually a “preliminary summary draft” and that the “parties have not yet agreed upon and reduced to writing numerous material terms[.]” In fact, SCWorx and Telehealth Company had not even executed a purchase agreement, under which any binding purchase order would then be issued.

6. Nonetheless, Schessel repeated the false and misleading statements from the press release – and made additional false and misleading statements – on a call with SCWorx investors on April 15, 2020, in a report filed with the Commission on April 16, 2020, and in a SCWorx press release issued on April 17, 2020. Schessel’s additional false and misleading statements included telling investors that Supplier Company’s supposed COVID-19 test kit “had the proper F[ood] [and] D[rug] A[dm]inistration] authorizations under the emergency authorization act,” despite the fact that he knew or was reckless in not knowing

that the Supplier Company's COVID-19 test kits did not have the proper U.S. Food and Drug Administration ("FDA") emergency use authorization ("EUA").¹

7. SCWorx and Schessel benefitted from the massive surge in SCWorx's stock price. For example, SCWorx issued shares to satisfy a large debt to an SCWorx vendor while the stock price was inflated due to the false and misleading statements by SCWorx and Schessel. As Schessel explained in an April 14, 2020 email to SCWorx's Board of Directors, "now that the stock has increased in value[,] we can actually pay the entire [vendor debt] with the stock," which was a "homerun for the company" and an "amazing development that we have worked on getting [i]n position for."

8. On April 30, 2020, before delivering a single COVID-19 test kit, SCWorx reported in a public SEC filing that the "committed" purchase order touted in its press releases had been "terminated" and that its agreement with Supplier Company, the supposed COVID-19 test kit supplier, was also "terminated."

¹ An EUA is a mechanism the FDA uses to facilitate the availability and use of medical countermeasures, including test kits, during public health emergencies, such as the current COVID-19 pandemic. *Emergency Use Authorization*, U.S. Food and Drug Administration, <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization> (last visited May 30, 2022).

9. Through their conduct, SCWorx and Schessel violated Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)], as well as 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]. Unless restrained and enjoined, Defendants will continue to violate these provisions and are likely to engage in future violations of the federal securities laws.

JURISDICTION AND VENUE

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

11. The Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

12. Defendants, directly or indirectly, made use of the means and instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the acts, transactions, practices, and courses of business alleged in this complaint.

13. Venue is proper in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v] and Section 27(a) of the Exchange Act [15 U.S.C. § 78a(a)] because certain of the offers and sales of securities and certain of the

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