

# BETWEEN THE LINES

October 2, 2020

## CEO Departures & Showjumper Shocks – It’s Been a Tough Year

The first nine months of 2020 have been tumultuous to say the least, and CEOs have felt their fair share of change and unpredictability. According to a July report from Challenger, Gray and Christmas—an executive outplacement and coaching firm that has been tracking CEO turnover since 2002—a total of 788 chief executives have left their posts between January and July of this year. While January 2020 showed a record number of departures, March through May numbers were lower than previous years as uncertainty associated with COVID-19 put everything on hold. June and July figures have ticked up again as companies are now assessing changes in strategy and leadership in the post-COVID environment. According to Challenger, Gray and Christmas, most companies are happy with the performance of the CEOs who are departing, but for many investors, a leadership change in the C-Suite is an important event that could have a meaningful impact on an investment thesis. Here at Business Intelligence Advisors (“BIA”), we apply our Tactical Behavior Assessment<sup>®</sup> (TBA<sup>™</sup>) methodology to examine the verbal components of corporate communications to assess their transparency and completeness and help our clients see what others are missing. With so many changes in leadership this year, we decided to examine statements surrounding executive departures at Nikola Corporation and AngloGold Ashanti to show how our behavioral lens can reveal incremental insight into what these departures might mean for investors.

On a different note, with the excitement of the Preakness Stakes on October 3, we are reminded of a scandal in the showjumping part of the equestrian world earlier this year: one of its brightest stars has been accused of animal abuse—with the photographic evidence to prove it. Showjumper Andy Kocher is being investigated by The Federation Equestre Internationale for allegedly using electric spurs during several 2018 competitions. Despite apparently being caught red-handed, Mr. Kocher’s responses to the allegations reflect attempts to persuade the public that he did nothing wrong. We apply our model to his statements and demonstrate how BIA would conclude, even without the damning photos, that Mr. Kocher did, in fact, use the prohibited device.

## Electric Trucks Can’t Haul Accusations Away

One of the most recent headline-grabbing executive departures has been that of Trevor Milton, founder and Executive Chairman of electric-truck company Nikola Corp. Mr. Milton and Nikola have been publicly accused of misleading investors about the progress the Company has made with its technology. Nikola, which went public in June of this year, has entered into a number of partnerships with potential clients, developers and third-party manufacturers as an integral part of its growth strategy. On September 10, just three days after striking a \$3 billion partnership with GM, Hindenburg Research published a short-seller report alleging a series of improprieties at the Company revolving around Mr. Milton. On September 20, Nikola Corp. announced that Mr. Milton voluntarily offered to step down:

*“Nikola is truly in my blood and always will be, and the focus should be on the Company and its world-changing mission, not me,” said Milton. “So I made the difficult decision to approach the Board and volunteer to step aside as Executive Chairman.”*

While the reason behind this executive departure is obviously linked to the allegations in the short-seller report, it is notable that Mr. Milton offers no rebuttal to the allegations in his statement regarding his decision to step down. Indeed, his statement that “the focus should be on the Company” and “not me” suggests that public attention on allegations swirling around Mr. Milton is likely to persist, and that his continued association with the Company is likely to be detrimental to Nikola’s future. This, in

turn, suggests that at least some of the allegations have merit—and that well before the short seller report, Mr. Milton's behaviors signaled that the Nikola One could not drive itself.

**BIA Delves Deeper:** One of the Hindenburg report's allegations is that the Nikola One truck never really drove on its own, despite Mr. Milton's insistence that it could. Below is an excerpt from the report:

*"We reveal how, in the face of growing skepticism over the functionality of its truck, Nikola staged a video called "Nikola One in Motion" which showed the semi-truck cruising on a road at a high rate of speed. Our investigation of the site and text messages from a former employee reveal that the video was an elaborate ruse—Nikola had the truck towed to the top of a hill on a remote stretch of road and simply filmed it rolling down the hill."*

When the Nikola One was unveiled in 2016, Mr. Milton stated at the end of the presentation:

*"For every doubter out there that said there's no way this is true. How can that be possible? We've done it. It's my pleasure to actually let you guys enjoy the night, see the truck, know it's real, touch it, feel how sturdy it is. You're going to see that this is a real truck. This is not a pusher."*

Also, in a 2016 interview, Mr. Milton was asked if the Nikola One was a fully functioning vehicle. He said "Yeah." He was then asked how long the Company had been working on the vehicle, to which he responded:

*"Years in secrecy. It's been very hard. Some of the people found out about us over the last 4 or 5 months as we announced in the lead-up to this big event, but it took years and years to get here. This isn't just a pusher like a lot of vehicles that they unveil [that] are just vehicles that don't actually function. This is a fully functional vehicle which is really incredible. You can go through. We can change out whatever they want, all the temperatures. I mean this is a fully functioning vehicle; it's not just a pusher. That's what they call [it] in the automotive world; they just push and it doesn't move."*

Fast forward to September 15, 2020, just days after the Hindenburg report was published and we see how the Company's language around the functionality of the Nikola One changes. In a press release responding to the Hindenburg report, when addressing the accusation that the 2016 Nikola One was a pusher, the official statement reads that *"The Nikola One is a real truck that sits in Nikola's showroom. A pusher means a vehicle that was not designed to be moved by its own propulsion system. The Nikola One was, in fact, designed to be powered and driven by its own propulsion."* While it may be true that the truck was "designed" to be powered and driven by its own propulsion, this statement does not actually say that the car was in fact self-propelled. Furthermore, the statement enumerates that the *"Gearbox was functional and bench tested prior to installation. Batteries were functional. Inverters functioned and powered the motors on a bench test prior to the show and Power steering, Suspension, Infotainment, Air Disc Brakes, High Voltage, and Air Systems were all functional."* While this says that components were "functional" and bench tested "prior" to installation for the show, they still fall short of confirming that the truck was self-propelled, suggesting it was not. Indeed, the press release goes on to state that the Company *"decided not to invest additional resources into completing the process to make the Nikola One drive on its own propulsion. After pivoting, Nikola produced prototypes for the Nikola Two, which are self-propelled and have been frequently demonstrated, beginning with demonstration runs at Nikola World in April 2019."* The phrase that the Company decided not to invest additional resources toward "completing the process to make the Nikola One drive on its own propulsion" is an inadvertent acknowledgement that the Nikola One had not successfully achieved self-propulsion.

The Company's response continues to address the accusation that the Nikola One 2017 promotion video was filmed rolling down a hill:

*"Nikola never stated its truck was driving under its own propulsion in the video, although the truck was designed to do just that (as described in previous point). The truck was showcased and filmed by a third party for a commercial. Nikola described this third-party video on the Company's social media as 'In Motion.' It was never described as 'under its own propulsion' or 'powertrain driven.' Nikola investors who invested during this period, in which the Company was privately held, knew the technical capability of the Nikola One at the time of their investment. This three-year-old video of a Nikola prototype is irrelevant except for the fact that the short seller is trying to use it for its main thesis. The fact is, Nikola has real working hydrogen fuel-cell powered semi-trucks. Any reports intended to suggest that Nikola's trucks do not drive are erroneous, and recent videos of Nikola vehicles driving can be found here."*

These statements reflect a notable change in language from statements made in 2016. Here, rather than insisting that the Nikola One was fully functional, the statement "Nikola never stated its truck was driving under its own propulsion in the video" narrowly focuses on what was said to be shown "in the video." Furthermore, the repeated emphasis that the video was made

by a “third party” reflects additional effort to absolve the Company of accountability for what was portrayed in the video. More significantly, the statement makes a strong defense of the Company’s communication with investors at the time, insisting that investors who invested at the time “knew the technical capability of the Nikola One,” and dismisses the significance of the video by reminding investors that the “three-year-old” video of a “prototype” is “irrelevant.” They then refocus attention on the present, stating that “the fact is, Nikola has real working hydrogen fuel-cell powered semi-trucks.” This defensiveness reflects an effort to cast past events as justifiable for driving present results, bolstering the conclusion that the Nikola One’s technical capabilities were not as successful as the Company portrayed at the time.

**BIA’s behavioral analysis indicates: The Nikola One’s technical capabilities were not as successful as the Company portrayed at the time, and there is merit to the allegations that the Nikola One had not achieved self-propulsion.**

**BIA’s Approach to Discovering More:** Several statements that we examine above provide openings for effective follow-up using BIA’s proprietary approach to interviewing. For example, that they did not say the Nikola One was self-propelled “in the video” creates the opportunity to explore whether the prototype was self-propelled outside the video. Furthermore, by acknowledging what management says about what was in the video, an effective interviewer can disarm management and force them to address the topic more directly. One way to accomplish this countermove would be to ask the question in the manner set forth below:

*It is understandable that when the third party filmed the commercial, you did not have complete control over the shoot, and I do understand that the producers might roll the car down a hill to achieve a certain visual effect. It is also common for prototypes to have limitations in functionality because the technology is still under development, so it is not surprising you pivoted your investments toward a new model. In 2016 and 2017, what technologies in the Nikola One interfered with the truck’s ability to drive under its own propulsion?*

## Mining Mystery Produces Fool’s Gold

AngloGold Ashanti, the world’s third largest gold miner, suddenly and unexpectedly announced on July 30, 2020, that Kelvin Dushnisky would step down as CEO after just two years at the helm. The announcement came about one month after a major stockholder, Public Investment Group (PIC), asked the Company to investigate bonuses paid out to Mr. Dushnisky. AngloGold’s stock had risen fivefold since Mr. Dushnisky’s arrival. Below is an excerpt from the press release announcing the CEO’s decision to leave:

*“AngloGold Ashanti announces that Kelvin Dushnisky will step down as chief executive officer (CEO), effective 1 September 2020. The Board thanks Kelvin for his contribution in delivering on its strategy and wishes him well in the future. Kelvin will remain in Toronto to spend time with his family but will be available to assist the group with a smooth handover until 28 February 2021.*

*‘I would like to thank Kelvin for his role in advancing our strategy, and wish him the very best for the future,’ AngloGold Ashanti Chairman Sipho Pityana said. ‘AngloGold Ashanti is well positioned to further improve returns for shareholders, through improved operational performance and our rigorous approach to capital allocation.’”*

The reason behind Mr. Dushnisky’s departure is vaguely implied to be so he can “spend time with his family,” but the statement does not specifically say so. This suggests that family reasons are unlikely the sole reason for the surprise announcement. Furthermore, while the statement thanks Mr. Dushnisky for “his role in advancing our strategy” and “wish[es] him the very best for the future,” there are no statements that reflect more than perfunctory gratitude or sense of loss that would typically be present in mutually agreeable circumstances. This suggests that at the time of this announcement, the relationship between Mr. Dushnisky and his Board of Directors was not particularly friendly. This also raises the possibility that the departure stemmed from some sort of tension between the two parties. The matter-of-fact tone of the press release along with the absence of a specific reason for the decision suggests that Mr. Dushnisky is departing for reasons other than to be with his family, and that it is likely these reasons caused friction between him and the Board of Directors.

**BIA Delves Deeper:** The day after this announcement, rumors emerged that the Board asked Mr. Dushnisky to leave. According to the rumors, the root of the issue was that AngloGold paid Mr. Dushnisky an \$800,000 signing bonus to compensate him for the \$926,000 bonus he would have received if he had stayed in his former role at Barrick Gold in 2018. *Bloomberg* reported that when it was published in Barrick’s annual report that they did pay him the annual bonus, Mr. Dushnisky was asked by the Board to repay the \$800,000 signing bonus. *Bloomberg* also reports that while the Board had found that there was a breach of trust and a “mistake in judgment,” it did not take further action. It was also reported that PIC’s demand for a probe

prompted the Company to push for Mr. Dushnisky to resign or face a potentially damaging investigation—something AngloGold dismisses:

*“AngloGold Ashanti’s board rejects as false any allegation that it threatened the company’s CEO with an investigation into the matter of a bonus. Neither did the board request Mr. Dushnisky’s resignation, which was a personal decision that we respect and understand,”* AngloGold said in an e-mailed response to *Bloomberg*.

The phrase that the Board “rejects as false” any allegation that AngloGold threatened Mr. Dushnisky with an investigation is not the same as saying the Board did not intend to investigate or consider launching a probe. Similarly, the phrase “Neither did the board request Mr. Dushnisky’s resignation” does not preclude the possibility that the board would have fired the CEO if he did not choose to resign. To be sure, AngloGold has an incentive to downplay the events surrounding Mr. Dushnisky’s bonuses given the success the Company has enjoyed over the past two years. Even so, our analysis of their statements here indicates an effort by the Board to distance itself from decisions associated with Mr. Dushnisky’s departure, while at the same time suggesting that they exerted some sort of pressure to precipitate his resignation. This in turn suggests that the board is aware of circumstances that would reflect unfavorably on AngloGold as a whole.

**BIA’s behavioral analysis indicates: Mr. Dushnisky likely resigned for reasons other than family matters, and there was likely pressure on him by the AngloGold Board to do so.**

**BIA’s Approach to Discovering More:** In this example, management is tight-lipped about the reasons for the CEO’s departure. Management consistently sticks to their narrative that the CEO left the Company for family reasons and that it was his choice to do so. BIA’s approach can overcome this common challenge to effective interviewing. An effective prologue before asking a well formulated hypothetical question can help break down this behavioral barrier and make management feel more at ease to share information. For example:

*We realize that you want to respect Mr. Dushnisky’s privacy and that you may be limited in what you can say about the circumstances regarding his departure. We completely understand his desire to spend more time with his family. It is also understandable that the issue of his signing bonus is a confidential matter, and in this type of situation, any Company in your position would want to focus on maintaining the trust of its management team. If Mr. Dushnisky had decided to stay in his post as CEO, how would that have impacted the Company? How would his relationship with the Board have changed if he had chosen to stay in the CEO role?*

## **Andy Kocher: Animal Abuse Allegations Shock Equestrian World**

The French publication *GRANDPRIX* reported that a whistleblower accused Mr. Kocher of using electric spurs. The device works when a rider pushes a button concealed in his or her hand. This sends an electric shock through a wire that runs up the sleeve and down the leg of the rider, and ultimately the shock passes through the rider’s spur and into the horse’s side. This story broke on June 26 and included five condemning photos.

According to *GRANDPRIX*, when reached by phone, Mr. Kocher defended himself by saying:

*“It doesn’t mean anything to me. I belong to three generations of horse men, I have spent my life in stables, I am a breeder and I have retired horses. I regularly participate in actions with associations rescuing equines so I don’t like what you say, but what you have to say interests me, keep going.”*

When presented with the photos, *GRANDPRIX* reports, Mr. Kocher cut the interview short without offering any explanation. Afterwards, in writing, he again defended himself, saying:

*“I love my horses and I take great care of them. I refuse to speak to anyone who claims otherwise. My horses represent my whole life. Do you know where I come from?”*

**BIA’s take on these statements:** In his initial response, Mr. Kocher attempts to disassociate himself from the allegations with the phrase “it doesn’t mean anything to me” and to give the impression that he has nothing to hide. He also feels compelled to highlight his lifelong work with horses and that he “regularly participate[s] in actions with associates rescuing equine so I don’t like what you say” to give the impression that he would never condone animal abuse. Yet, when confronted with the photos, Mr. Kocher is unable to respond in any way. He does this either because he needs to carefully think about how to respond, or because the photos were threatening to him and triggered a “fight or flight” reaction. In either case, by shutting down the line of questioning, Mr. Kocher reveals that he is psychologically unable to refute the allegations. Anything short of an immediate and flat-out denial is a significant behavioral indication that Mr. Kocher is culpable.

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Indeed, when Mr. Kocher follows up in writing, he again resorts to statements to give the impression that he would never abuse his horses, saying, “I love my horses and I take great care of them.” But again, he does not take the opportunity to say he did not use electric spurs. Instead, he becomes defensive—“I refuse to speak to anyone who claims otherwise”—and at the same time goes on the offensive with “Do you know where I come from?” These statements are attempts to cast himself as unassailable and discredit anyone who believes he would abuse his horses. This aggressive attempt to denigrate his accusers rather than set the record straight strongly suggests that Mr. Kocher used electric spurs.

### **Alleged Animal Abuser Attacks the Accuser**

On June 29, the Federation Equestre Internationale (FEI) opened an investigation into the matter. On July 1, Mr. Kocher responded to the allegations:

*“I can confirm that I received a notification from the FEI yesterday that someone has asked the Equestrian Community Integrity Unit to investigate allegations of horse abuse against me. I was devastated to receive this letter from the FEI. I know who has brought these allegations against me, and sadly that person is improperly using these important horse welfare protections to gain an advantage over me in a private dispute. I love my horses and would never do anything to sacrifice their welfare. However, I will participate in the FEI process and defend against these allegations, so that the real story behind them ultimately emerges.”*

**BIA’s take on these statements:** In his response to the opening of the FEI investigation, Mr. Kocher uses some familiar deceptive tactics and a couple new ones. As he did in his interactions with *GRANDPRIX*, Mr. Kocher attacks his accuser, this time more directly and more specifically discrediting the person’s motivation to cast doubt on the allegations. And again, in lieu of a denial, Mr. Kocher attempts to portray himself as innocent, saying, “I love my horses and would never do anything to sacrifice their welfare.” He even takes this strategy a step further by saying, “I was devastated to receive this letter from the FEI” to cast himself as a victim to garner sympathy.

Unlike before, Mr. Kocher does not openly refuse to address the allegations. Instead, he attempts to appear cooperative by saying, “I will participate in the FEI process and defend against these allegations.” However, while this may have the appearance of transparency, the word “participate” in the process does not necessarily imply cooperation. Also, the word “defend” against these allegations is not the same as saying he will prove the allegations wrong. These statements reveal that Mr. Kocher is unable to refute the allegations and that, while he will be forced to engage with investigators, he is unlikely to cooperate fully. Indeed, the phrase that he will participate in the investigation “so that the real story behind them ultimately emerges” is a veiled threat against the whistleblower, suggesting that during the investigation, Mr. Kocher will be focused on defaming the whistleblower and not on getting to the bottom of the allegations. Altogether, the BIA Indicators in Mr. Kocher’s responses to the allegations against him of animal abuse indicate that he used electric spurs during competition.

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