The SEC and DOJ Signal Continued Focus on AI Washing Under Trump Administration

April 17, 2025

On April 9, 2025, the U.S. Securities and Exchange Commission (the "SEC") and the U.S. Attorney's Office for the Southern District of New York filed parallel actions against Albert Saniger, the former CEO of Nate, Inc. ("Nate"), alleging that he made materially false and misleading statements to investors about the company's artificial intelligence ("AI") capabilities. This matter is particularly noteworthy as the cases are the first AI-washing enforcement actions brought by the SEC and Department of Justice ("DOJ") under the new Trump administration. These actions demonstrate that the SEC and DOJ intend to continue pursuing both civil and criminal charges against individuals for alleged misstatements or omissions concerning the use of AI—including in the context of private market fundraising.

[DOJ's indictment](#) and the [SEC's civil complaint](#) allege that Saniger raised over $42 million from private market investors by falsely claiming that Nate's mobile shopping software used AI to complete users' purchases across a variety of retail platforms. According to the government's filings, Saniger solicited investments by touting Nate's purported reliance on AI—including "machine learning" and "neural networks"—to autonomously process transactions, when in fact he knew that virtually all of the purchases were being completed manually by contract workers based in the Philippines, Romania, and elsewhere. The majority of the alleged misrepresentations about Nate's technology platform were made in presentations, marketing materials, and emails to venture capital firms for the purpose of raising private capital.

Saniger allegedly went to great lengths to conceal his fraud. Specifically, Nate conducted product demonstrations for investors that made it falsely appear that the software was automatically completing purchases, when in fact, at Saniger's direction, Nate employees and others manually processed the orders. Saniger also directed employees to prioritize manually processing transactions initiated by investors to avoid suspicion. Moreover, Saniger allegedly instructed Nate engineers to conceal the status of the company's AI development from other employees.

In June 2022, an online news report published by *The Information* suggested that Nate's claims about its use of AI were false. That article, in part, prevented Nate from raising

additional capital, which caused the business to cease operations in 2023. While Saniger personally profited from this scheme by selling his own shares to an investor, Nate did not return funds to shareholders, leaving investors with tens of millions of dollars of losses.

DOJ's indictment contains two counts, the first alleging securities fraud under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and the second alleging wire fraud under 18 U.S.C. Sections 1342 and 1343. The SEC's complaint also alleges violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and separately alleges violations of Section 17(a) of the Securities Act of 1933.

In a press release announcing DOJ's case against Saniger, acting U.S. Attorney for the Southern District of New York Matthew Podolsky suggested that DOJ's continued focus on AI washing is part of a broader effort by the Trump administration to promote the development and advancement of legitimate AI ventures. Specifically, Podolsky noted that "as alleged, Albert Saniger misled investors by exploiting the promise and allure of AI technology to build a false narrative about innovation that never existed. This type of deception not only victimizes innocent investors, it diverts capital from legitimate startups, makes investors skeptical of real breakthroughs, and ultimately impedes the progress of AI development. This Office and our partners at the FBI will continue to pursue those who seek to harm investors by touting false innovation."

Because this case was largely investigated and developed under the Biden administration—and Saniger's alleged fraud was particularly brazen—it may offer only limited predictive value regarding the Trump administration's ultimate approach to AI-related enforcement regarding less clearcut matters. That said, the case against Saniger and acting U.S. Attorney Podolsky's associated comments suggest that the Trump administration views AI washing as a potentially serious threat to its broader policy goals of promoting the development of innovative AI technology companies and protecting retail investors. This case also makes clear that the SEC and DOJ will continue bringing enforcement actions against private company executives under the federal securities laws.

In this regulatory environment, companies should closely scrutinize all public- and investor-facing materials to ensure that any representations about the use of technology, automation, or AI are accurate and substantiated. These considerations apply with equal force to startups and smaller private companies seeking to raise capital outside of the public markets.

For additional discussion of considerations for drafting statements about AI, see here and here.

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Andrew J. Ceresney
Partner, New York
+1 212 909 6947
aceresney@debevoise.com

Charu A. Chandrasekhar
Partner, New York
+1 212 909 6774
cchandrasekhar@debevoise.com

Avi Gesser
Partner, New York
+1 212 909 6577
agesser@debevoise.com

Julie M. Riewe
Partner, Washington, D.C./San
Francisco
+1 202 383 8070
jriewe@debevoise.com

Kristin A. Snyder
Partner, San Francisco
+1 415 738 5718
kasnyder@debevoise.com

Cameron B. Wolfe
Associate, Washington, D.C.
+1 202 383 8279
cbwolfe@debevoise.com