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Recent SEC and DOJ Enforcement Actions and Charges Signal that AI-Washing is Firmly Within the Crosshairs of the Trump Administration

Summary

Two recent SEC and DOJ enforcement actions have underscored the government's interest in disclosures involving the use of artificial intelligence. On April 9, 2025, the U.S. Securities and Exchange Commission (SEC) and the U.S. Attorney's Office for the Southern District of New York commenced parallel actions against Albert Saniger, the former CEO of Nate, Inc. (Nate), a privately-held technology startup, alleging that he made materially false and misleading statements to investors regarding the company's artificial intelligence (AI) capabilities. Then on April 22, 2025, the SEC and the U.S. Attorney's Office for the Eastern District of Virginia announced parallel charges against Ramil Palafox, the founder of PGI Global, alleging, among other claims, that he made false statements to investors regarding the development of an AI-powered crypto auto-trading platform and other topics.

These actions are notable as they mark the first AI-washing enforcement actions brought by the SEC and the Department of Justice (DOJ) under the Trump administration, which has named enhancing "America's global AI dominance" as a priority. The actions and accompanying statements by DOJ and SEC officials signal that the current administration may view AI-washing as a threat to achieving its broader policy initiative and accordingly, intends to pursue civil and criminal charges based on alleged false and misleading statements regarding AI capabilities, which may include fundraising by public companies, private companies, and investment advisers.

Companies and investment advisers, including private fund advisers, are advised to conduct a thorough review of their disclosures and public-facing statements regarding AI capabilities to ensure that such disclosures and statements are accurate, consistent and can be substantiated with supporting documentation. Issuers should pay particular attention to statements used in fundraising activities, whether in the public or private markets.

Background and Analysis

AI-washing was a priority of the SEC and DOJ under the Biden administration. Former SEC Chair Gary Gensler posted multiple statements in 2024 addressing false claims concerning the use of AI, and cautioning that “public companies making statements on AI opportunities and risks need to take care to ensure that material disclosures are accurate and don’t deceive investors.” Other senior SEC officials also noted at the time that the staff was focused on AI disclosures in SEC filings, and that companies should have a basis for any statements concerning their AI capabilities. AI-washing cases under the prior administration included charging two registered investment advisers for making false and misleading statements about their purported use of AI in marketing materials: (i) charging [the CEO of MoviePass](#), alleging that he made false claims regarding MoviePass’ use of AI; and (ii) charging [Presto Automation](#), alleging that the company made misleading statements regarding its AI speech recognition tech.

Those efforts have continued in the new administration. In the actions against Saniger, the [DOJ’s indictment](#) and the [SEC complaint](#) charged him with securities fraud; the DOJ also charged him with wire fraud. The Nate app was marketed as an online shopping cart app that allowed users to purchase items from any e-commerce site by simply opening the app and clicking buy, with the checkout process purported to be completed through the use of AI. Saniger raised over \$42 million from private market investors through alleged misrepresentations about Nate’s mobile shopping software’s ability to complete users’ purchases without human intervention, as virtually all orders placed by users required manual processing by contractors. In Palafox, the SEC and the U.S. Attorney’s Office for the Eastern District of Virginia brought [charges](#) against Ramil Palafox, the founder of PGI Global. Palafox is alleged to have raised \$198 million from investors and to have misappropriated over \$57 million of those funds. The government alleged that PGI was a crypto asset and foreign exchange company, and investors were told, among other things, that PGI had developed a platform to trade crypto assets using AI. In reality, the charges claim, Palafox was aware that this platform did not exist and that little to no trades were being conducted on investors’ behalf, through AI or otherwise.

These actions may be understood in the context of the current administration’s focus on promoting the development of innovative AI technology companies in the U.S., as demonstrated by the signing of [Executive Order 14179 – Removing Barriers to American Leadership in Artificial Intelligence](#) – on January 23, 2025, just days after the Inauguration. The Order indicates that, “[i]t is the policy of the United States to sustain and enhance America’s global AI dominance.” The Order further “revokes certain existing AI policies and directives that act as barriers to American AI innovation, clearing a path for the United States to act decisively to retain global leadership in artificial intelligence.”

The above actions, and accompanying statements by DOJ and SEC officials, seem to demonstrate that this administration views AI-washing as a significant threat to U.S. innovation in the field of AI, by chilling investments in, and diverting funding away from, legitimate companies in the space, and suggest that the SEC and DOJ will continue to scrutinize AI-related disclosures made by market participants. Specifically, the then-acting U.S. Attorney in the Saniger case [stated](#) that Saniger’s misrepresentation, “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.” The Chief of the SEC’s Cyber and Emerging Technologies Unit [stated](#) in the Palafox case that, “Palafox used the guise of innovation to lure investors into lining his pockets... [i]n reality, his false claims of crypto industry expertise and a supposed AI-powered auto-trading platform were just masking an international securities fraud.”

Takeaways

- Companies and investment advisers should closely monitor any materials, statements, and disclosures (including websites and social media), and ensure that these disclosures are accurate, consistent, and substantiated with supporting documentation.
- Particular attention should be paid to statements used in fundraising activities, whether in the public or private markets. These considerations apply equally to large public companies and smaller private companies.
- Investment advisers, which are subject to routine SEC examination, should pay close attention to any marketing material referencing the use of AI, including with respect to use of AI in making investment decisions.

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