

# SEC Targets AI Washing in Private Capital Markets: “Old School Fraud Using New School Buzzwords”

June 14, 2024

On June 11, 2024, the U.S. Securities and Exchange Commission (“SEC”) filed its third matter this year involving “AI washing”—namely, alleged misstatements or omissions by securities market participants about the use of artificial intelligence (“AI”). This particular case is noteworthy for several reasons: it is the Commission’s first litigated AI washing matter; concerns statements made to raise funds from private market investors; and involves parallel criminal charges.

The [SEC’s complaint](#) alleges that Ilit Raz, the founder and Chief Executive Officer of tech startup Joonko Diversity, Inc. (“Joonko”), marketed Joonko as capable of helping clients find job candidates from diverse backgrounds, but that she defrauded investors by making material misrepresentations regarding Joonko’s customer base, business operations, revenue and use of AI. Raz allegedly made claims about Joonko’s use of “AI-based technology,” a “proprietary algorithm” and “machine learning,” none of which actually existed. The majority of the alleged misrepresentations about Joonko’s technology platform were made in presentations and marketing materials provided to private equity and venture capital firms, as well as to individuals, for the purpose of raising private capital.

Until now, the SEC’s campaign against AI washing has targeted [registered investment advisers](#), broker-dealers and public companies. For example, SEC Chair Gary Gensler declared in March 2024 that “AI washing, whether it’s by financial intermediaries such as investment advisers and broker dealers, or by companies raising money from the public, that AI washing may violate the securities laws.”

But the case against Raz demonstrates that the SEC is not limiting its scrutiny of AI representations to any particular market participants. Instead, the case makes clear that the SEC will scrutinize all AI-related claims made by any companies or firms, public or private, seeking to attract investors to raise capital. So while this matter may simply be—in the words of SEC Enforcement Director Gurbir Grewal—a case of “old school fraud using new school buzzwords,” the charges against Raz reinforce the importance of clear, accurate and comprehensive statements about the use of technology, automation, and artificial intelligence—not just for public companies, broker-dealers and investment

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advisers, but also for startups and smaller, private companies seeking to raise capital from sources other than 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.  
+1 202 383 8070  
jriewe@debevoise.com



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



**Matt Kelly**  
Counsel, New York  
+1 212 909 6990  
makelly@debevoise.com



**Suchita Mandavilli Brundage**  
Associate, New York  
+1 212 909 6486  
smbrundage@debevoise.com