

Securities Regulation Daily Wrap Up, ENFORCEMENT—N.D. Cal.: SEC charges tech startup with defrauding investors of \$11M, (Jul. 21, 2020)

Securities Regulation Daily Wrap Up

By [Anne Sherry, J.D.](#)

The Silicon Valley company allegedly falsified bank statements to conceal that it was grossly exaggerating its revenue earnings.

The SEC filed a civil lawsuit in San Jose, California, alleging that a tech company and its founder raised \$11 million from investors via fraudulent statements. After telling investors that YouPlus, Inc., had millions in revenue and had raised venture capital, the defendants admitted that the company had only ever had four paying customers and had earned less than half a million in revenue since its inception. The government also announced [parallel criminal charges](#) against the individual defendant ([SEC v. YouPlus, Inc.](#), July 20, 2020).

According to the SEC's complaint, beginning in 2013 the defendants raised seed funding to develop "a machine-learning tool to interpret and deliver customer insights from videos on the internet." The alleged misconduct began in 2018 when the defendants misrepresented the company's financial results and revenue prospects to raise another \$11 million through the offer and sale of convertible promissory notes. Investors received spreadsheets showing over a million dollars in prior revenue and projected revenue of \$8 million and \$40 million in 2018 and 2019. According to the SEC, the revenue figures were false and the projections were "baseless."

The defendants continued to send false information about YouPlus's revenues, customer base, and fundraising prospects to prospective investors. For example, in early 2019, the individual defendant told a representative of an existing investor that YouPlus had \$8 million in recurring annual revenue; the investor, a venture fund, put in another \$800,000. Later in 2019, the fund agreed to invest more, but questioned why YouPlus needed the funding given its prior revenue representations and pressed for more information. The defendant provided financial documents that did not support the revenue figures, while also providing falsified bank statements showing purported customer deposits that were never made. At a meeting, the venture fund confronted the defendant, who admitted that YouPlus had exaggerated its revenues and customer base. In email correspondence, the defendant admitted that YouPlus had earned only \$500,000 in sales and revenue since its inception and that he personally had received \$1.3 million from the company.

The SEC is seeking permanent injunctions, civil penalties, disgorgement, and an officer-and-director bar. "Private companies engaged in early-stage fundraising must tell the truth when selling securities to investors," [said](#) Erin E. Schneider, Director of the SEC's San Francisco Regional Office. In announcing the parallel criminal charges of securities fraud and wire fraud against the individual defendant, U.S. Attorney David L. Anderson said, "Silicon Valley is a global leader when it comes to ingenuity and entrepreneurship. Fraud is neither ingenuity nor entrepreneurship." FBI Special Agent in Charge John F. Bennett added that the FBI "will not allow deceit, corporate greed, and federal criminal activity to run rampant in Silicon Valley."

The case is [No. 20-cv-04855](#).

Attorneys: Bernard B. Smyth for the SEC.

Companies: YouPlus, Inc.

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