

Data Center Company CEO Indicted for Major Fraud and Making False Statements to the U.S. Securities and Exchange Commission

A federal grand jury in the District of Columbia returned an indictment yesterday charging a Maryland man with major fraud against the United States and making false statements to the U.S. Securities and Exchange Commission (SEC) for his alleged participation in a scheme to deceive the SEC into thinking his company's data center was certified at the highest rating level for reliability, availability, and security, when it was not.

According to the indictment, Deepak Jain, 49, of Potomac, was the CEO of an information technology services company (referred to in the indictment as Company A) that provided data center services to customers, including the SEC. From 2012 through 2018, the SEC paid Company A approximately \$10.7 million for the use of Company A's data center in Beltsville, Maryland.

As alleged in the indictment, Jain created an entity called Uptime Council, which purported to inspect and audit data centers. In order to obtain the SEC data center contract and conceal that Company A did not meet the SEC contract's requirements, Jain allegedly drafted Uptime Council certification letters, which falsely claimed Uptime Council had certified Company A's data center as a Tier IV data center, the highest possible rating for reliability, availability, and security. Throughout the pendency of the contract between Company A and the SEC, the SEC experienced several issues with Company A's data center, including issues with security, cooling, and power — all of which were subjects of the standard referenced in the fraudulent Uptime Council certification letters.

“As alleged in the indictment, Jain orchestrated a years-long scheme to defraud the SEC by falsely certifying that his company's data center met the highest rating level, when the actual rating did not satisfy the SEC contract,” said Principal Deputy Assistant Attorney General Nicole M. Argentieri, head of the Justice Department's Criminal Division. “Jain allegedly sought to enrich himself and his company at the expense of the reliability, availability, and security of the SEC's electronic data. Yesterday's charges make clear that the Criminal Division will not tolerate fraud schemes that threaten the security of the government's electronic data.”

“This indictment demonstrates our shared commitment with the Justice Department to hold bad actors accountable for engaging in schemes to defraud the SEC that undermine the integrity and fairness of the government procurement process,” said Inspector General Deborah Jeffrey of the SEC.

Jain is charged with six counts of major fraud against the United States and one count of making false statements. If convicted, he faces a maximum penalty of 10 years in prison on each count of major fraud and a maximum penalty of five years in prison on the making false statements count.

The SEC Office of Inspector General is investigating the case.

Senior Litigation Counsel Vasanth Sridharan and Trial Attorney Spencer Ryan of the Criminal Division's Fraud Section are prosecuting the case.

If you believe you are a victim in this case, please contact the Fraud Section's Victim Witness Unit toll-free at (888) 549-3945 or by email at victimassistance.fraud@usdoj.gov.

An indictment is merely an allegation. All defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.