

Ex-Nikola Chairman Indicted for Securities Fraud

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In April 2021, the SEC [released several public statements](#) that may have begun to cool a superheated SPAC market. FINRA soon followed suit, [announcing in July 2021 a regulatory sweep](#) aimed at SPACs. Now, for the first time, a criminal case has been filed in connection with a company that came to market as part of the 2020 SPAC explosion.

As a “new” and “exciting” vehicle for companies to go public, several SPACs have attracted companies with their own new and exciting vehicles: [electric cars](#) or “EVs”. One of the hottest recent EV companies was Nikola Corporation. Founded by Trevor Milton, Nikola promoted zero-emissions semi-trucks and pickup trucks powered by hydrogen fuel-cells, which require specialized recharging stations that would produce hydrogen on site for cars and trucks to refuel. Milton often promoted Nikola and its prospects on social and legacy media. During the height of the SPAC boom, Nikola [announced its intent to go public via a SPAC](#) called VectoIQ Acquisition Corporation in March 2020, and did in fact go public with a multi-billion dollar valuation three months later. On September 8, 2020, Nikola announced a partnership with General Motors whereby GM purchased shares in Nikola then valued at \$2 billion.

Shortly after this announcement, the ominously-named Hindenburg Research (a short seller) issued a [report](#) on September 10, 2021, claiming “Nikola is an intricate fraud built on dozens of lies over the course of its Founder and Executive Chairman Trevor Milton’s career.” The report specifically alleged Nikola’s statements regarding its in-house technology and access to hydrogen were exaggerations or outright lies. Shortly after this report was issued, Milton resigned from Nikola. Later that month, Milton and other senior officers at Nikola received subpoenas from the SEC and the U.S. Attorney’s Office for the Southern District of New York and the N.Y. County District Attorney’s Office.

In November 2020, GM announced their proposed equity stake in Nikola would no longer occur but that GM would continue to work with Nikola on fuel-cell technology. After trading at more than \$50/share in September 2020, Nikola spent the majority of the past twelve months trading below \$20/share. In February 2021, Nikola submitted its [10-K annual filing](#), in which it admitted Milton made at least nine statements that were “inaccurate in whole or in part, when made.”

On July 29, 2021, the U.S. Attorney’s Office for the Southern District of New York [issued](#) a 48 page indictment against Milton, charging him with two counts of securities fraud and one count of wire fraud. According to the Department of Justice, Milton “sought to fraudulently induce retail and other investors to purchase Nikola’s stock by making false and misleading statements about Nikola’s products and milestones on social media and in television and podcast interviews.” Among the misleading claims, the prosecution alleges Milton made false statements regarding the company’s semi-truck and pickup trucks, its ability to produce hydrogen for fueling its vehicles, its in-house development of technology, and the nature of its future delivery of reserved vehicles. Through defense counsel, Milton has denied these accusations and indicated his intentions to oppose the indictment.

It remains to be seen what role, if any, Nikola’s transaction with VectoIQ will play in the criminal case, or if any conduct taken by the SPAC will be implicated. We will continue to follow this litigation and will keep you updated.

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