

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11352 / January 14, 2025

SECURITIES EXCHANGE ACT OF 1934
Release No. 102177 / January 14, 2025

ADMINISTRATIVE PROCEEDING
File No. 3-22413

In the Matter of

**PRESTO AUTOMATION
INC.,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Presto Automation Inc. (“Presto” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. This matter concerns materially false and misleading statements that Presto, a restaurant technology company, made to investors regarding critical aspects of its flagship artificial intelligence ("AI") product, Presto Voice. Presto made these false and misleading statements in its Commission filings and public statements between November 2021 and May 2023.

2. Presto Voice employs AI-assisted speech recognition technology to automate aspects of drive-thru order-taking at quick-service restaurants. From November 2021 to September 2022, the only units of Presto Voice that the company deployed used speech recognition technology owned and operated by a third party ("Supplier A"). Although Presto described the Presto Voice product and the technology on which it was based in Commission filings it made during this time period, Presto failed to disclose that it used Supplier A's AI technology, rather than its own technology (which it did not begin to develop until early 2022), to power all Presto Voice units it commercially deployed during this time period. Presto's failure to disclose its reliance on Supplier A's technology rendered the company's descriptions of the technology powering Presto Voice as "our" technology and "Presto's" technology misleading, as this failure to disclose created the false impression that this technology was proprietary to Presto.

3. Around September 2022, Presto began to deploy with certain customers Presto Voice units powered by Presto's own proprietary AI speech recognition technology, while the units powered by Supplier A remained in service. However, between September 2022 and at least May 2023, when Presto described the Presto Voice units powered by its proprietary technology, the company misrepresented the capabilities of the product by claiming that it eliminated the need for human order taking. In reality, Presto Voice units powered by Presto's proprietary AI speech recognition technology lacked the capability to take orders on their own and required substantial human involvement. Presto hired, trained, and supervised human order takers located abroad (primarily in the Philippines and India), who processed the vast majority of drive-thru orders placed through Presto Voice.

4. Presto also claimed that it had achieved an exceptionally high rate of orders completed without human intervention with units of Presto Voice powered by its proprietary technology. But the rate Presto reported in fact referred to orders completed without restaurant staff intervention, which required significant off-site human intervention. And Presto's reports of similar rates with respect to units powered by Supplier A's AI technology were misleading because Presto failed to disclose that those rates were achieved in reliance on Supplier A's technology.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. Further, Presto failed to establish and maintain disclosure controls and procedures as required by Exchange Act Rule 13a-15(a) for issuers with a class of securities registered under the Exchange Act.

6. As a result of the conduct described above, Presto violated Section 17(a)(2) of the Securities Act and Section 13(a) of the Exchange Act and Rules 13a-11 and 13a-15(a) thereunder.

Respondent

7. **Presto Automation Inc.** is a Delaware corporation headquartered in San Carlos, California. Presto is a restaurant technology company offering enterprise-grade digital solutions to the restaurant hospitality industry through various products. Since approximately May 2023, Presto has focused on its automation and voice AI technology product, Presto Voice. Following a Business Combination (as defined below) with a special purpose acquisition company, or SPAC, in September 2022, the company's common stock traded on the Nasdaq Global Market ("Nasdaq") under the ticker symbol "PRST." Nasdaq suspended trading on August 8, 2024. On September 6, 2024, Nasdaq filed a Form 25 to delist Presto's stock and warrants. Presto's common stock currently trades over-the-counter and is registered with the Commission pursuant to Section 12(g) of the Exchange Act. On September 19, 2024, Presto filed a Form 15, the effect of which is to terminate the registration of its securities and suspend its obligation to file reports under the Exchange Act. The Form 15 became effective on December 18, 2024.²

Background

Presto's Business Combination

8. Presto was created through the merger of E La Carte, Inc. d/b/a Presto Inc., a Delaware corporation headquartered in Redwood City, California ("Legacy Presto") and Ventoux CCM Acquisition Corp. ("Ventoux"), a Delaware corporation headquartered in Greenwich, Connecticut. Ventoux was formed on July 10, 2019 as a SPAC for the purpose of effecting a business combination with one or more businesses. Ventoux completed an initial public offering in December 2020, at which time its units³ began trading on Nasdaq, and its common stock, warrants, and rights began trading on Nasdaq on February 5, 2021.

9. On November 10, 2021, Ventoux and Legacy Presto entered into an Agreement and Plan of Merger, as amended on April 1, 2022 and July 25, 2022 (the "Merger Agreement"), pursuant to which, among other transactions, Legacy Presto would merge with a subsidiary of Ventoux, with Legacy Presto remaining as the surviving company and as a wholly-owned

² Pursuant to Exchange Act Rule 12g-4(a), a Form 15 becomes effective 90 days after its filing with the Commission.

³ Each Ventoux Unit consisted of one share of common stock, \$0.0001 par value ("Common Stock"), one right entitling the holder thereof to receive one-twentieth (1/20) of one share of Common Stock upon the consummation of an initial business combination, and one warrant entitling the holder thereof to purchase one-half (1/2) of one share of Common Stock at a price of \$11.50 per whole share.

subsidiary of Ventoux. On September 21, 2022, Ventoux and Legacy Presto consummated the merger contemplated by the Merger Agreement (the “Business Combination”), and Ventoux changed its name to Presto Automation Inc.⁴ On September 22, 2022, Presto’s common stock and warrants began trading on Nasdaq under the symbols “PRST” and “PRSTW,” respectively.

Development and Deployment of Presto Voice

10. Since Presto’s founding until shortly prior to the Business Combination, Presto’s business was focused on Presto Touch, the company’s pay-at-the-table tablet solution. This was Presto’s most widely adopted product and represented the vast majority of its revenue. In or around 2021, as Ventoux began to explore taking Presto public through a SPAC transaction, Presto was in the midst of expanding its business beyond tablets, which it later determined to wind down, and toward offering restaurant technology products powered by AI. The AI products that Presto pursued at that time included Presto Voice and Presto Vision, a computer vision application. Leading up to the Business Combination, Presto sought to position itself in the public markets as a technology company with substantial growth potential in the very large and growing market for AI-assisted restaurant drive-thru products. Presto touted its strong Presto Voice sales pipeline, while de-emphasizing the legacy tablet business.

11. As of 2021, Presto had not yet developed its own voice AI technology that could be commercially deployed at restaurant drive-thrus. Shortly before announcing its plan to merge with Ventoux, Presto entered into an agreement with Supplier A, a provider of voice AI technology for the restaurant industry. Under this agreement, Presto obtained a license from Supplier A to install Supplier A’s voice AI technology at certain customer restaurant locations as part of Presto Voice-branded units. Supplier A’s voice AI solution allowed for automated voice interaction to accept orders placed through the drive-thru and could be integrated into the restaurant’s point-of-sale (“POS”) system. Presto’s executives understood that Supplier A’s voice AI solution was supported by human agents to some extent. Under the agreement with Supplier A, Presto agreed to lead the sales and integration process for Presto Voice powered by Supplier A’s voice AI technology with specified customers.

12. From at least November 2021 to September 2022, the only Presto Voice units that Presto commercially deployed were powered by the voice AI technology and components owned and operated by Supplier A. Presto deployed these units at restaurants of its largest Presto Voice customer (“Customer A”).

13. In early 2022, Presto initiated development of its own proprietary voice AI technology to power Presto Voice. Similar to the technology offered by Supplier A, Presto’s proprietary voice AI technology used speech recognition technology to facilitate order taking at drive-thru restaurants and could be integrated with a restaurant’s POS system. In September 2022, Presto began to commercially deploy Presto Voice units powered by its proprietary voice AI

⁴ Unless specified otherwise, references in this Order to Presto refer to, depending on the context, Legacy Presto prior to the Business Combination and to Presto Automation Inc. after the Business Combination. References in this Order to Ventoux refer to Ventoux prior to the Business Combination.

technology to new customers. The units powered by Supplier A remained in service, and Presto also continued to deploy units powered by Supplier A at additional locations of Customer A.

14. In June 2023, Presto began to pilot at select customer locations a more advanced version of Presto Voice powered by its proprietary technology. The original version of Presto Voice powered by Presto's proprietary technology remained deployed at a majority of customer locations until at least December 2023, except for locations of Customer A, where Presto continued to deploy units powered by Supplier A.

Relevant Securities Offerings and Filings

15. In connection with the consummation of the Business Combination in September 2022, Ventoux closed a private investment in public equity ("PIPE") offering in which it raised approximately \$55.5 million from institutional investors and accredited investors. Presto received a net contribution of offering proceeds of approximately \$49.8 million.

16. On December 16, 2022, Presto filed with the Commission a registration statement on Form S-8 relating to (i) the registration of common stock options previously granted Legacy Presto equity incentive plans; (ii) the registration of common stock reserved for issuance under the Presto Automation Inc. 2022 Incentive Award Plan; and (iii) the registration of the reoffer and resale of common stock previously granted to certain selling security holders pursuant to restricted share awards, restricted stock units or stock options under the Legacy Presto Plans. Certain Presto employees exercised options registered pursuant to this registration statement, including an option exercise by a Presto executive in February 2023.

17. On May 22, 2023, Presto closed a private placement offering in which it raised approximately \$9.5 million from certain accredited investors.

18. While offering and selling securities identified in Paragraphs 15 to 17, Presto made numerous materially false and misleading statements.

Presto Failed to Adequately Disclose that it Did Not Own or Operate the Voice AI Technology Powering Presto Voice at its Largest Customer

19. From at least November 2021 to September 2022, Presto's statements about the technology powering Presto Voice were misleading because the company failed to adequately disclose that the voice AI technology that powered all Presto Voice units commercially deployed during this time period was actually owned and operated by Supplier A.

20. During this time period, Presto's public statements described the Presto Voice product and the technology on which it was based. For example, in a Presto press release announcing the consummation of the Business Combination, which was furnished as an exhibit to a Form 8-K filed by Ventoux on November 10, 2021, Presto stated that it offers "next-generation touch, vision and voice technologies" and described Presto Voice as allowing "[g]uests and staff

[to] place orders in a natural conversational style via automated speech recognition with over 94% accuracy even in noisy environments.” And, on January 10, 2022, Presto issued a press release, which Ventoux filed with the Commission pursuant to Rule 425 of the Securities Act, that contained numerous references to “Presto’s voice ordering solution,” “Presto’s next generation solutions,” “Presto’s automated voice ordering technology,” and “Presto’s solution.” The press release referred to Supplier A only once when it described developing the solution in partnership with Hi Auto, a reference that did not adequately disclose either the role of Supplier A in powering Presto Voice or the extent of Presto’s reliance on Supplier A’s technology. In other filings, including the Form S-4 that Ventoux filed on March 14, 2022, and five other registration statement amendments and prospectuses filed between April 11 and August 12, 2022, Presto also referred to Presto Voice (powered by Supplier A’s technology) as, variously, “Presto’s speech recognition technology,” “Presto’s Voice product,” and “our technology.” Presto was the source of the statements contained in the filings identified above.

21. The statements identified above were materially misleading because they implied that Presto was using its own technology to power Presto Voice and failed to disclose that the voice AI technology that powered all Presto Voice units during this time period was owned and operated by Supplier A. Even though Presto made limited disclosures about Supplier A in certain of its filings, these disclosures did not contain sufficient information to inform investors about the extent of Presto’s reliance on Supplier A to power Presto Voice units deployed at restaurant locations of Presto’s largest customer.

22. Presto did not take any steps to correct the misleading statements identified above until, after learning of the Commission’s investigation, when it disclosed its relationship with Supplier A and its reliance on its technology in a filing with the Commission in October 2023, which is discussed further below.

Presto Falsely Claimed that Presto Voice Eliminated Human Order Taking

23. In addition to providing misleading information about its reliance on Supplier A, Presto also made materially false statements about the purported capabilities of Presto Voice units powered by its own proprietary voice AI technology to reduce reliance on humans in the drive-thru ordering process. In five registration statements that Presto filed with the Commission between October 21, 2022 and May 1, 2023, Presto claimed that Presto Voice “eliminat[es] human order taking.”⁵

24. Presto’s statements that Presto Voice eliminated human order taking were materially false because the Presto Voice units powered by the company’s proprietary voice AI technology did utilize humans in the order taking process. In fact, Presto relied heavily on humans to complete drive-thru orders at customer locations.

⁵ Presto made the same claims during the time period that it deployed only Presto Voice units powered by Hi Auto. Presto did not have an adequate basis to claim that Presto Voice units powered by Hi Auto eliminated human order taking because the company lacked a detailed understanding of the capabilities of Hi Auto’s technology and the degree of human involvement required to achieve its performance.

25. The original version of Presto’s proprietary voice AI technology, which Presto first commercially deployed in September 2022, required human agent intervention, including entering the order, in *all* instances. This version of Presto Voice used speech recognition technology to convert the customer’s voice order at the drive-thru to text. The text was then displayed to human agents that Presto contracted at various off-site locations, including in the Philippines and India. Presto’s human agents entered the order into the ordering system based on the text displayed, and confirmation of the order was then converted to audio and conveyed to the customer. The voice AI technology in this original version was designed to rely on this human support and was not capable of processing orders without it.

26. A more advanced version of Presto’s proprietary Presto Voice technology, which Presto began to pilot in June 2023, operated in much the same way but included an order taking component powered by AI that could complete drive-through orders in some cases without human support. This version required a human agent to enter the orders approximately 70% of the time during the time period of June 2023 through at least December 2023.

27. Presto’s extensive reliance on humans to power its proprietary version of Presto Voice was well known inside Presto throughout 2022 and beyond. For example, on January 20, 2022, a Presto executive messaged another executive at Presto explaining that “with HITL [humans in the loop], accuracy is not a major concern” and “...can even get to 95% or more with humans.” The conversation continued on January 21, 2022 with the Presto executive messaging that “[w]e’ll only be transitioning to our own Presto solution when we’ve nailed the HITL [humans in the loop] and have comparable accuracy / latency.”

28. Presto did not take any steps to correct the false statements identified above until it explained, after learning of the Commission’s investigation, its reliance on humans in detail in filings with the Commission in October to December 2023, as described further below.

Presto’s Presentation of Data Measuring Human Involvement in Customer Order Completions Was Misleading

29. From November 2021 through January 2023, Presto used in public filings the terms “automated order completion” rate and “non-intervention” rate interchangeably to describe the capabilities of Presto Voice. Presto’s use of these terms created the impression that Presto Voice completed drive-thru orders without *any* human involvement at the rates Presto disclosed. This impression was misleading. In reality, and unbeknownst to investors, Presto’s reported “automated order completion” and “non-intervention” rates referred to rates at which drive-thru orders were completed without *restaurant staff* involvement (but not without any human involvement). Moreover, when Presto reported these rates during the time period that it deployed only Presto Voice units powered by Supplier A, it failed to disclose that this data was provided by Supplier A and was not independently verified by Presto.

30. In investor presentations furnished as exhibits to Ventoux’s January 12, 2022, April 11, 2022, and July 26, 2022 Forms 8-K and Presto’s January 11, 2023 Form 8-K, Presto represented that Presto Voice had achieved “automated order completion” rates of 95% to 99% at Customer A’s restaurants. Presto was the source of the content in the investor presentations filed by Ventoux. In addition, in the investor presentation filed as an exhibit to Presto’s January 11, 2023 Form 8-K, Presto claimed that Presto Voice had consistently achieved “non-intervention” rates greater than 95%.

31. With respect to Presto Voice units powered by Presto’s proprietary voice AI technology, Presto’s representations that these units achieved “non-intervention” rates at or above 95% were misleading because such statements, made without qualification, created the false impression that human involvement was very limited. As set forth above in paragraphs 24 to 26, however, units powered by Presto’s proprietary technology required human agent intervention, including entering orders, in most instances (and in all instances for the vast majority of the relevant time period).

32. With respect to Presto Voice units powered by Supplier A, Presto’s representations that these units achieved “automated order completion” rates at or above 95% were misleading because Presto failed to disclose that the rates it reported were achieved by Supplier A’s voice AI technology.

33. During the time period in which Presto reported “automated order completion” and “non-intervention” rates to investors, certain Presto executives identified the potential for these terms to create confusion and misunderstanding among Presto investors and customers. For example, in October 2022, a senior Presto executive messaged a group of other Presto executives that the company should not refer to “automation rate with customers because it infers no supervision which isn’t true.” A discussion among Presto executives ensued regarding whether “automated completion rate,” “intervention rate,” or other terms were most appropriate to use with customers. In January 2023, another Presto executive raised concerns that Presto was “telling investors Presto AI is running 95%+ accuracy without disclosing AI is doing NONE of the work and all orders are processed by humans.” Similar concerns were voiced internally by several other senior executives at Presto.

34. Despite understanding that its terminology was likely to mislead and confuse investors, Presto took no steps to correct the misleading statements identified above until it provided clarity, after learning of the Commission’s investigation, that the rates measured restaurant staff interventions (as opposed to human intervention at off-site locations) in filings with the Commission in October to December 2023, as described further below.

After the Commission Began Investigating Presto, the Company Disclosed the True State of its Technology and Relationship with Supplier A

35. After learning that the staff of the Commission began an investigation regarding the accuracy of Presto’s disclosures of its technology, Presto disclosed additional information in public

filings with the Commission from October to December 2023. These disclosures explained the extent of the company's relationship with Supplier A and its reliance on humans to complete orders placed through Presto Voice units powered by Presto's proprietary technology.

36. In a Form 10-K filed on October 11, 2023, Presto included specific disclosures regarding its relationship with Supplier A, including Supplier A's identity and that its voice AI technology powers Presto Voice units deployed at Customer A's restaurant locations. Presto also disclosed in this filing that Customer A was Presto's largest installed voice AI customer.

37. In the same October 11, 2023 Form 10-K, Presto also disclosed for the first time that Presto Voice utilized human agents located off-site to "enter, review, validate and correct orders received by Presto Voice" and that the use of human agents was "to ensure that the desired level of accuracy in order taking is achieved."

38. Next, in a prospectus supplement filed on November 17, 2023, Presto disclosed for the first time that "over 70% of orders taken by our Presto Voice solution require human agent intervention." Finally, in a Form 8-K filed on December 14, 2023, Presto clarified its November 17 disclosure, stating that the 70% of orders that required human agent intervention referred to orders at the few locations where the most advanced version of Presto Voice was being piloted, and that human agent intervention was required on 100% of orders at the substantial majority of locations where the original version of Presto Voice units were installed. At that time (December 14, 2023), Presto also disclosed that its non-intervention rate across all restaurants powered by Presto's proprietary technology was on average 85%, and it achieved non-intervention rates of 95% or higher at only certain restaurant locations.

Presto's False and Misleading Statements Were Material

39. Reasonable investors would have considered the false and misleading statements described above to be material in making investment decisions concerning Presto's securities during the relevant time period.

40. For example, an analyst who covered Presto's stock did not know the extent to which humans were involved in taking the majority of Presto Voice orders until reading the new disclosures in Presto's November 17, 2023 prospectus supplement. Prior to these disclosures, the analyst also understood Presto's statements about "automated order completion" and "non-intervention" rates to refer to rates of any human intervention in the order taking process, not just restaurant staff intervention. The analyst would have considered this information to be material in assigning a rating to Presto's stock.

41. Other investment professionals expressed to Presto that its public disclosures may not have included information they considered to be material. In December 2022, an asset manager who conducted diligence on Presto responded to a request from a Presto investor relations employee for feedback about the company. After reviewing investor materials and meeting with Presto executives, the asset manager told the Presto employee that Presto "need[s] to be front and

center that you have only one commercial deployment of [Presto Voice], that it is a very small percentage of the company's revenue and that you have no patented technology. Anyone who starts to do work on the company and has to find those things out after speaking to the company will be very unlikely to be an investor now or later.”

42. Similarly, in August 2023, employees of an investment bank were left with basic questions about important facts relating to Presto's relationship with Supplier A after analyzing a Presto public filing that provided incomplete information about the relationship. The investment bank employees requested that Presto explain, among other things, whether Supplier A was “providing the underlying AI technology” powering Presto Voice, whether Presto could continue to service Customer A if Supplier A were to terminate its relationship with Presto, and whether there were any Presto Voice customer agreements “where Presto owns the entire underlying tech stack.”

Presto Did Not Have Disclosure Controls and Procedures

43. From September 2022 through December 2024, Presto failed to design, implement, or maintain disclosure controls and procedures to ensure that the information disclosed by Presto in Commission filings was accurate and not materially misleading.

44. During this time period, Presto had no established process for drafting, reviewing, or approving periodic or current reports required to be filed with the Commission. Although Presto adopted a policy for review of press releases in December 2023, it never implemented disclosure controls and policies and procedures for reviewing periodic or current reports required to be filed by the company. As a result, Presto did not have an established process to ensure that the information required to be disclosed in its filings was recorded, processed, summarized, and reported accurately, or that information required to be disclosed by the company was accumulated and communicated to Presto's management for timely assessment and disclosure pursuant to applicable rules and regulations. The result of this failure is that no one at Presto was formally responsible for ensuring that the information disclosed in Presto's Commission filings was accurate.

Violations

45. As a result of the conduct described above, Respondent violated Section 17(a)(2) of the Securities Act, which makes it unlawful for “any person in the offer or sale of any securities . . . directly or indirectly . . . to obtain money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.” Negligence is sufficient to establish violations of Section 17(a)(2) of the Securities Act. *Aaron v. SEC*, 446 U.S. 680, 697 (1980).

46. Also as a result of the conduct described above, Respondent violated Section 13(a) of the Exchange Act and Rule 13a-11 thereunder, which require every issuer of a security

registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and current reports as the Commission may require, and mandate that the reports contain such further material information as may be necessary to make the required statements not misleading.

47. Also as a result of the conduct described above, Respondent violated Rule 13a-15(a) under the Exchange Act, which requires every issuer of a security registered pursuant to Section 12 of the Exchange Act to, among other things, maintain disclosure controls and procedures designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in the Commission's rules and forms.

Presto's Remedial Efforts and Cooperation

48. In determining to accept this Offer, the Commission considered Respondent's current financial condition. The Commission also considered remedial acts undertaken by Respondent and cooperation afforded the Commission staff. Throughout the investigation, Presto voluntarily met with the Commission staff on multiple occasions and provided presentations and factual summaries of relevant information. After learning of the Commission's investigation, Presto began to make changes to its disclosures in Commission filings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act and Section 13(a) of the Exchange Act and Rules 13a-11 and 13a-15(a) thereunder.

By the Commission.

Vanessa A. Countryman
Secretary