

THE RULES ON CEO TWEETS WEREN'T MADE FOR ELON

Musk

By [Jackie Wattles](#) and [Victoria Cavaliere](#), [CNN Business](#)

Updated 11:28 AM ET, Fri April 5, 2019

New York (CNN Business) — When the US Securities and Exchange Commission decided that companies could use social media to disseminate key information to shareholders, regulators didn't have a CEO like Elon Musk in mind.

Musk and the SEC are in a bitter legal staredown — Stuart Meissner, a securities law attorney, said it reminds him of "divorce court." The government says Musk's reckless tweets could mislead investors.

How the two sides come to terms could lay out new rules for public companies.

The SEC [rules](#) allow public companies to use Facebook and Twitter to make announcements so long as investors have been alerted about which social media channel will be used — and if the information is truthful and made available to the general public.

Security regulators count on companies and their chief executives to use social media carefully. But Musk, the CEO of Tesla, is known for his frequent and casual use of Twitter to talk about the company's plans — and plenty of other stuff.

He has 24 million Twitter followers. He's known to spend hours online answering questions from customers, sharing memes, or musing about his next grand idea. His posts can be [controversial](#) and [combative](#).

Musk has been locked in a bitter standoff with securities regulators over his social media use -- and on Thursday a [federal judge gave them](#) two weeks to reach an agreement on how he can post material information about the electric car company.

The SEC had sued Musk for contempt, claiming he violated a settlement agreement last year that required he gets pre-approval from Tesla lawyers before he posts about the company. Musk was required to step down as chairman and pay a fine as part of the deal, which he said has violated his freedom of speech.

Meissner said he doubts two weeks of negotiations will clear up the animosity between Musk and the SEC.



Related Article: 'Put your reasonableness pants on': Judge gives Musk and SEC two weeks to settle dispute over tweets

Musk's ongoing battle with the SEC highlights the difficulties of leading a publicly traded company while also being an avid social media user.

The SEC describes Musk's conduct as "reckless" and says he has published "inaccurate and material information," running afoul of disclosure rules that govern how companies should share information that can impact stock prices. Musk says the regulator is trying to silence him and he's done nothing wrong.

Some of the tweets landed Musk in hot water.

On April 1, 2018, as the car company missed production deadlines, Musk played an April Fool's joke on the world by tweeting that [Tesla was bankrupt](#). Tesla investors weren't



Elon Musk @elonmusk · Apr 1, 2018

Tesla Goes Bankrupt

Palo Alto, California, April 1, 2018 -- Despite intense efforts to raise money, including a last-ditch mass sale of Easter Eggs, we are sad to report that Tesla has gone completely and totally bankrupt. So bankrupt, you can't believe it.



Elon Musk

@elonmusk

There are many chapters of bankruptcy and, as critics so rightly pointed out, Tesla has them *all*, including Chapter 14 and a half (the worst one).

47K 5:02 PM - Apr 1, 2018

[5,277 people are talking about this](#)

On June 12, 2018, Musk tweeted that a Tesla reorganization is underway. The surprise announcement sent share prices higher.

years, which has resulted in some duplication of roles and some job functions that, while they made sense in the past, are difficult to justify today.

As part of this effort, and the need to reduce costs and become profitable, we have made the difficult decision to let go of approximately 9% of our colleagues across the company. These cuts were almost entirely made from our salaried population and no production associates were included, so this will not affect our ability to reach Model 3 production targets in the coming months.

Given that Tesla has never made an annual profit in the almost 15 years since we have

In addition to this company-wide restructuring, we've decided not to renew our residential sales agreement with Home Depot in order to focus our efforts on selling solar power in Tesla stores and online. The majority of Tesla employees working at Home Depot will be offered the opportunity to move over to Tesla. Everything you've done for Tesla and the team you well in your future opportunities. To those remaining, I would like to thank you in advance for the difficult job that remains ahead. We are a small company in one of the toughest and most competitive industries on Earth, where just staying alive, let alone growing, is a form of victory (Tesla and Ford remain the only American car companies who haven't gone



Elon Musk

@elonmusk

Difficult, but necessary Tesla reorg underway. My email to the company has already leaked to media. Here it is unfiltered:

71.1K 1:02 PM - Jun 12, 2018

[12.6K people are talking about this](#)

On August 7, 2018, Elon Musk tweeted that he had secured funding to take Tesla private at \$420 a share. The stock soared after his announcement. The problem was he hadn't secured the funding, according to the SEC. In September, the regulator filed a lawsuit against Musk, claiming he misled investors.

"Musk premium," which could disappear if he leaves or is ousted from the firm.

Elliot Lutzker, an attorney at Davidoff Hutcher & Citron LLP and a former SEC prosecutor, told CNN Business that regulators and judges understand that — and they take it into account when deciding how to punish Musk for breaking the rules.

Judge Alison Nathan told the two sides to "reasonableness pants on" as they seek a compromise. If one isn't reached, Nathan will decide Musk's fate, potentially siding with regulators and holding Musk in contempt. He could face another hefty fine and further limits to his social media use -- and even removal as Tesla's CEO.