

Grant & Eisenhofer Files Suit Seeking to Block Elon Musk from Tweeting About Tesla

Suit in Delaware Chancery Court brought on behalf of institutional investors asserts that Musk’s repeated misstatements on social media have wreaked havoc on Tesla shareholders; “Twitter is a dangerous tool in this CEO’s hands.”

WILMINGTON, DEL. (March 8, 2019) – Law firm **Grant & Eisenhofer** has brought suit on behalf of institutional investors against Elon Musk and the board Tesla Inc., asserting that the CEO’s ongoing unchecked misstatements on Twitter have continued to harm the company and its shareholders.

The lawsuit, filed in Delaware Court of Chancery, seeks a declaratory judgment and a permanent injunction against Mr. Musk over his unchecked use of Twitter to make inaccurate statements about the company. The suit also alleges that the Tesla CEO and directors breached their fiduciary duty to shareholders by failing to rein in Mr. Musk’s flaunting of controls supposedly in place to prevent further online misstatements.

Grant & Eisenhofer is representing the Laborers’ District Council and Contractors’ Pension Fund of Ohio, a Tesla shareholder.

Last August, Mr. Musk tweeted that he had secured funding for a plan to take the electric company private at a certain share price, a statement which turned out to be untrue. That led to a settlement with the U.S. Securities and Exchange Commission which required Tesla and Mr. Musk each to pay a \$20 million fine and the implementation of a policy that required Mr. Musk’s statements on social media to be pre-approved. He was also forced to step down as the company’s chairman. But in February, the SEC asked a court to hold Mr. Musk in contempt after Musk tweeted, without prior vetting by counsel, that Tesla would produce about 500,000 cars this year.

The new lawsuit seeks a declaratory judgment that Mr. Musk and Tesla’s board breached their fiduciary duty in connection with Twitter posts concerning Tesla. Shareholders are also asking for injunctive relief and monetary damages with respect to Tesla’s use of Mr. Musk’s personal Twitter account to make statements concerning the company.

“Mr. Musk has continually disregarded all efforts to rein in his material misstatements on social media,” says Grant & Eisenhofer director **Michael Barry**. “He has ignored federal court orders, a settlement with the SEC, and even his company’s own corporate policies expressly requiring that any of his tweets regarding Tesla be pre-screened. His conduct has not only cost Tesla shareholders dearly but threatens to expose the company to even greater liability and litigation in the future. For its part, the Board of Directors has been completely ineffective, and in fact Tesla still identifies Mr. Musk’s personal Twitter account as a source of official disclosures by the company. It has to stop.”

Grant & Eisenhofer filed the lawsuit under seal; a public version is expected to be available by March 12. The firm has petitioned Vice Chancellor Joseph R. Sights III to hold a hearing as soon as possible on the plaintiffs’ claims.

The full case caption is *Laborers’ District Council and Contractors’ Pension Fund of Ohio, Gloria Lupkin, and Jeffrey H. Kripitz c/f Sasha I Kripitz UTMA, Derivatively on Behalf of Tesla Inc. v. Elon Musk, Brad W. Buss, Robyn M. Denholm, Ira Ehrenpreis, Larry Ellison, Antonio J. Gracias, Steve Jurvetson, Kimbal Musk, James Murdoch, Linda Johnson Rice, and Kathleen Wilson-Thompson, and Tesla Inc., as Nominal Defendant 2.*

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