Arbitrage of the Century

Unless you live under a rock, you have probably heard of Elon Musk's bid to acquire Twitter. Yet despite the massive attention the deal received, indeed, quite possibly because of the massive attention the deal received, the Twitter acquisition presented one of the best opportunities for arbitrage we have ever seen. In general, arbitrage opportunities suffer from limited possible upside if a deal goes through, but massive downside if a deal falls apart. The proverbial picking up nickels in front of a steamroller. In those situations where a large price gap is present and there is significant upside to be had, that is virtually always because the market judges, rightly, that the risk of the deal falling apart is significant. Neither of these dynamics appeal to us as investors, and we generally avoid regular arbitrage situations.

The Twitter acquisition, on the other hand, presented a situation with a very significant price gap between the share price and the deal price, for a deal that was virtually guaranteed to be completed, one way or another. All it took was a willingness to wade into the details and understand the facts and legal issues at stake. The amount of misinformation and misanalysis that was coming from all sides was staggering, but at the same time there existed a plethora of first-hand information of the highest quality (legal briefings, court exhibits, hearings open to the public, etc.) that allowed an investor to reach high levels of confidence. Such a combination of extremely low actual deal risk with such high upside upon completion is virtually never to be found. The Twitter acquisition is truly in the running to be considered the arbitrage of the century, and we are happy to have taken advantage of the arbitrage opportunity for the Fund.

The Twitter acquisition saga has been a real roller coaster, with news updates occurring very frequently (although not usually having much of an impact on the core issues). Even as we write these words, the matter is highly fluid, and by the end of the week, there's a good chance that the saga will have ended (with Elon Musk the proud owner of one slightly used Twitter). Nevertheless, although our analysis is soon likely to be out of date and the time to invest has past, we hope you will find it instructive to follow our train of thought and our investment analysis of the situation, particularly as this is an investment opportunity which is somewhat out of the ordinary for the Fund to pursue.

Background

There were many twists and turns on the rapid path Elon Musk and Twitter took to reach the acquisition agreement. Musk first announced in early April that he had built an approximately 9% passive stake in the company. Then, he agreed to join the board. On the day the board seat was to become effective, he backed out of that plan. Finally, he decided to make an offer for the entire company at $54.20 a share, about $44 billion in total. The offer was first publicly made on April 14th and Musk had bank financing lined up within a week. Over the following weekend, the deal was rapidly negotiated, until it was ultimately signed on April 25th. The deal was pushed through relatively rapidly, with Musk waiving all due diligence and offering what he termed a "seller-friendly" agreement (one which Twitter's lawyers amended in a few ways to make even more seller-friendly).

Almost immediately after the acquisition was announced, the market showed skepticism towards the deal, as evidenced by the somewhat wide spread between Twitter's share price and the acquisition price. Given that this was Elon Musk, who had the infamous history of claiming to take Tesla private ("funding secured") which came to nothing (and was nothing to begin with), people were naturally unsure how seriously to take

him. But unlike his Tesla fiasco, this time Musk had bankers and lawyers involved and ultimately signed a fully binding legal agreement. Apparently, this time was indeed different.

Yet, less than three weeks after signing the acquisition agreement, Musk tweeted that the Twitter deal was "temporarily on hold" pending verification of the percentage of spam bots on Twitter's platform. Needless to say, "temporarily on hold" is not a thing and the time to conduct due diligence is before signing binding legal agreements, not after signing a "seller-friendly" agreement having explicitly waived due diligence.

The market reaction to Musk's second thoughts was harsh and swift, with Twitter's share price declining sharply and the gap widening to a potential gain of about 40%, at times even more. On July 8th, Musk officially withdrew from the agreement, sending the stock even lower for a few days, after which it recovered to the previous ~40% gap. Twitter sued Musk in the Delaware Court of Chancery to force him to complete the deal, and shortly thereafter, a bench trial was set for five days to begin on October 17th.

It was our view throughout that given the tightly-crafted agreement and the actual claims Musk was making, the overwhelmingly probable outcome was that Musk would end up closing on terms. We also judged there to be a slight possibility of a small negotiated discount to avoid trial and an extremely small possibility of Musk successfully getting out of fulfilling his end of the bargain. We considered the 40% gap to be far too large and the investment opportunity far too juicy to pass up on. Unsurprisingly, we did not get in at the absolute low (that would be the day after Musk officially pulled out of the deal), as we began our investment in early June. Our thesis has always been that Musk would either choose to close willingly or be forced to do so in court, and it appears that this thesis is on the verge of being vindicated.

Basis for Termination

At first, Musk began making noise about the high percentage of bots and spam accounts on Twitter's platform. When he officially withdrew from the agreement, he cited a number of reasons to back up his right to withdraw, although none of them really withstood much scrutiny. Below, we enumerate his various legal pretexts, along with why they do not withstand scrutiny.

In his first claimed basis for termination, Musk claimed that since Twitter represented that <5% of Twitter accounts were fake or spam accounts and the number is really (in Musk's opinion) much higher, that gives him the right to withdraw. The truth is that this is wrong in almost too many ways to count. Firstly, Twitter never represented that <5% of accounts are spam. The actual line in their SEC filing is discussing not the percentage of accounts, but the percentage of average mDAU (monetizable Daily Active Users). The difference is crucial, because mDAU *by definition* is Twitter's way of measuring daily accounts *after subtracting out spam accounts*. The 5% figure was not about how many Twitter accounts in total are spam (which could be 30% or 70% for all we care), but how many accounts that Twitter thinks are human are actually really spam.

Secondly, Twitter never says that that figure is <5% either. What Twitter actually says is that Twitter has a process to *estimate* that figure, and that their internal estimate is <5%, and that their estimate could very well be wrong. They include a very lengthy caveat, to the point that pretty much the only way Twitter could be misrepresenting anything here would be for Twitter to either a) not actually have any process at all, or b) for the process to output a number higher than 5% and for Twitter to be outright lying about the output. Needless to say, for both propositions, there was and is zero evidence of such.

Thirdly, even if bots were really 10% or 15% (which wouldn't even matter, because that wouldn't mean that Twitter lied about their internal *estimate*), that would not mean that Musk could withdraw. According to the acquisition agreement, the level of error would have to rise to the level of an MAE (Material Adverse Event) to allow Musk to withdraw. An MAE is a notoriously rare event, basically meaning a long-term virtual destruction of the business. Famously, Delaware courts have only once in history found that an MAE clause was triggered, and that involved a company who had perpetrated a massive fraud on the FDA with fraudulent clinical trials and whose entire business had simply fallen off a cliff with no real hope for recovery.

Alternatively, instead of claiming an MAE as per the agreement, Musk could try to argue fraud to have the agreement itself voided. To win on fraud claims, Musk would have to show three things in total: that the error was *material* (a lower bar than an MAE), that Twitter had *intent* to defraud Musk with these statements, and that Musk had *relied* on the erroneous statements in signing the deal. Proving intent to defraud would be a tough bar, considering that these statements were in generic SEC filings not addressed at Musk specifically at all. And proving Musk's reliance would also be a very tough bar, considering that Musk had publicly claimed from the start that the purpose of the acquisition was to get rid of the massive number of bots on the platform. He apparently always thought that there were a huge number of spam accounts on Twitter.

Fourthly, there was literally zero evidence that Twitter's estimate was even mistaken. In fact, as claims and counterclaims were filed, it came out that Musk was laughably relying on Botometer (a third-party "toy" website that tries to estimate the likelihood of a specific Twitter account being a bot without access to the underlying data necessary to make an accurate assessment; in fact, Botometer had previously estimated Musk's own Twitter account to probably be a bot). More recently, through pre-trial discovery and briefings, it has been revealed that, contrary to Musk's assertions in his termination letter and counterclaims, Musk's own third-party data analysts basically agreed with the 5% figure for spam accounts.

Probably recognizing the weak nature of the spam dispute, Musk's lawyers came up with another pretext to allow withdrawal. The second claimed basis for termination was that Twitter was in breach of the agreement by failing to provide Musk with his information rights under the agreement. Before the termination, Musk kept on making more invasive and more ridiculous data requests. This was a transparent ruse by Team Musk to push and overreach until Twitter would be forced to decline and they could point the finger at Twitter as being uncooperative. This was obvious as it was happening in real-time, and this was indeed pointed out by numerous informed observers.

Twitter, to its credit, bent over backwards to comply with the ever-escalating requests to the point that they were very clearly going beyond the duty of the information rights in the agreement. In any case, the information rights were strictly limited to "any reasonable business purpose related to the consummation of the transactions" (i.e., things like bank account numbers to wire money to, documentation of authority to sign documents, and the like), not for pseudo-diligence, and certainly not for fishing expeditions to attempt to scuttle the deal. In addition, the agreement specifically allows Twitter to withhold information if, *in their own reasonable judgment*, the information would cause significant competitive harm to Twitter if the deal does not end up closing. Much of the private, sensitive data requested would be detrimental to Twitter in the hands of Musk, who was on record as contemplating starting a competing service and who showed absolutely no respect for NDAs (Non-Disclosure Agreements) throughout the process.

As a final pretext, Musk's third claimed basis for termination pointed to the firing of two high-level employees as well as increased employee attrition as Twitter failing its obligations to use "commercially reasonable efforts" to operate "in the ordinary course of business". This despite Musk having publicly called for a large pruning of Twitter's workforce and having refused to engage with Twitter's request to discuss an employee retention plan for the transition period (which Twitter was contractually barred from doing unilaterally). More to the point, Twitter specifically negotiated the removal of a clause that firing a person at the VP-level or above should be presumptively considered not in ordinary course, so Twitter was fully in their rights to actually do so.

Although not brought up in Musk's termination letter, a fourth claimed basis for termination showed up in the filed counterclaims and throughout the discovery process concerning the use of mDAU as a metric. Specifically, Musk spent a lot of time attacking Twitter for falsely saying that mDAU was the best metric to use to gauge Twitter's audience and engagement, when in truth Twitter had better internal metrics that they did not reveal to the public (or to Musk during his non-existent due diligence) and which painted a worse picture of Twitter's overall health. The idea that Twitter is being misleading by not sharing every internal metric they have is laughable; companies everywhere keep much of their internal data and metrics internal and proprietary for competitive reasons. The quotes attributed to Twitter about mDAU being the "best" metric were invariably quoted out of context. Be that as it may, although I judged this line of attack to have the most merit from all of them, Musk would still not be able to prove either fraud or an MAE with this, which would be the only ways for Musk to legally terminate the agreement.

As the lawsuit progressed, Musk actually sent two further termination letters with more invented reasons as to why he should be able to terminate. The second termination letter referenced the allegations made by Peiter "Mudge" Zatko, a former Security Lead executive for Twitter who came forward publicly in August with a slew of allegations against Twitter. In his discussion of spam, Zatko's whistleblower complaint actually sided with Twitter that mDAU numbers were accurate and that there was a problem of too much spam *outside* of the mDAU numbers. This was basically agreeing with what Twitter was saying all along, although you would not be able to tell this from mainstream media reports. But Zatko did make a number of other allegations, which Musk wanted to claim would amount to an MAE.

First, Zatko alleged that Twitter's security and data practices were deplorable and way below industry best practices. This is somewhat believable and likely can be said about many companies. Not an MAE.

Second, Zatko made specific allegations that specific security practices were in violation of an FTC consent order Twitter entered into with the FTC in 2011. However, if you read his complaint carefully, you will find that the actual issue that precipitated the FTC consent order, he agrees was vastly improved, but other issues remain, which he claims violated the FTC order to in general be secure. This was and is highly debatable, and even if true, there is no real way to see how this could possibly rise to the level of an MAE; the most likely outcome of an extended FTC investigation (if indeed Twitter were to be found liable, by no means a foregone conclusion) would be a fine.

Third, Zatko alleged that Twitter was infiltrated by foreign agents, naming India in particular. Indeed, just a few months ago, a former Twitter employee was convicted of using his job at Twitter to spy for Saudi Arabia on dissidents, so this claim is also believable to a degree. Still nowhere near an MAE.

Fourth, Zatko alleged that some of the data sets used to build Twitter's machine learning models involved IP not owned or licensed by Twitter. It is not precisely clear what he was referring to (presumably the training data for Twitter's machine learning models would be tweets?), and he never claimed to have any evidence of this. Really no way for this to be an MAE either.

In summary, despite a whistleblower complaint heavy on rhetoric and accusations, there was little to no evidence, no smoking gun of any sort (indeed, when testifying in front of Congress, Zatko admitted that some of his allegations were based on things that he heard other people say, with zero first-hand evidence), all on allegations that even if true would hardly grant Musk the right to terminate the agreement.

Finally, Musk presented a third termination letter, focusing on the $8 million severance payment Twitter made to Zatko in June as breaching Twitter's covenant to limit severance payments unless they were "in the ordinary course of business consistent with past practice". This claim, too, was going nowhere fast. The severance payment was made to settle Zatko's claims that he was fired without cause and entitled to multiple years of pay and stock options. It was therefore very much in the ordinary course, very likely consistent with past practice for Twitter, and arguably was to settle (threatened) litigation, which Twitter was explicitly allowed to do up to the sum of $25 million. On top of this, there is simply no way an $8 million payment on a $44 billion deal could possibly register as material.

If you've been following along, Musk presented nine independent reasons to be allowed to terminate the agreement, each one more ridiculous than the next. It appeared that Musk hoped to make up for the quality of his arguments with quantity. Musk had very little chance of prevailing in court before a judge, and virtually all lawyers who opined on the case said as much. More importantly, our own independent deep dive into the facts and law supported that Twitter was virtually guaranteed to win the case if they persevered until trial. Indeed, we judged the biggest risk to the investment thesis to be that Twitter's board could simply fold and agree to walk away or renegotiate a worse deal. This was a risk we spent a large amount of time thinking about and analyzing. As time went on, it became clear that Twitter's board had no intentions of giving in. Certainly after the shareholder vote almost unanimously approved the merger (as expected) in September, there was little leeway for such a course of action, which would require more delay, another shareholder vote, and would invite a slew of shareholder lawsuits against the directors themselves.

Misconceptions and Myths

There are a number of misconceptions and myths circulating, both among investors and in the mainstream media, over how the case is likely to play out and what potential risks there may be with trying to invest in this arbitrage. A number of the contentions bandied about are frankly ridiculous to anyone who bothers to educate themselves on the topic, but I will nevertheless run through them one by one.

Myth 1: The whole fight is over the $1 billion termination fee that Musk doesn't want to pay, but even if he loses, he can simply pay the termination fee and walk.

This notion is flat-out wrong. The agreement calls for a $1 billion termination fee if the merger can't close for reasons beyond Musk's control, such as lack of regulatory approval or financing falling through. If there is no such outside barrier and Musk simply refuses to close, which is the case we are discussing, the agreement gives Twitter the right to sue for specific performance, which means that the court should order Musk to close. In fact, the agreement specifically says that the parties agree that the damage from not closing

is irreparable and cannot be satisfied simply with monetary damages (which are capped by agreement at $1 billion). Indeed, both sides agreed to not even claim in court that specific performance is an inappropriate remedy. Twitter is suing for specific performance for Musk to be forced to close on terms, for $54.20 a share, not simply a measly $1 billion termination fee.

Myth 2: Specific performance is rarely granted. The court will not order Musk to buy a business he doesn't want to own. The most Twitter can get is some level of damages.

It is true that in general, courts are hesitant to order specific performance and tend to award damages instead. (In this case, the agreement has an agreed $1 billion cap on damage awards, which would not make Twitter shareholders whole in the least.) But that is everywhere other than the Delaware Court of Chancery which has jurisdiction for this case. The Delaware Court of Chancery is a court of equity, which means that the court has broad discretion to craft solutions specific to each case. So, it is true that even if the court finds in favor of Twitter, the court is not bound by the contract to have to order specific performance. That said, the Delaware Court of Chancery routinely orders specific performance for acquisitions and as a matter of course defers to agreements crafted by sophisticated parties that specifically call for specific performance, as does the agreement we are dealing with.

Myth 3: Musk will drag this out in courts for years.

Not happening. Delaware is famous for its quick court processes, and for time-sensitive matters such as this, the Delaware Court of Chancery works hard to expedite cases in a matter of months. I was very confident that there was no way this would drag out for more than a year, and indeed the very first act of the judge appointed to run the case was to grant Twitter's request for expediting the case, granting a trial date a little more than three months away from the date of the lawsuit being filed. And even with such a complex and broad-ranging dispute, the judge did an admirable job in keeping the trial on track in the ensuing months, throughout the discovery process and its many disputes.

Myth 4: Even if Musk loses, he will just appeal and drag it on for forever.

For Musk to appeal, he would have to post a bond covering the entire purchase price (plus interest), even for the part that is supposed to be bank-financed. It is not at all clear that push comes to shove, Musk would find it at all advantageous to appeal such a weak case. More to the point, even if he did appeal, the appeals court in Delaware runs the same tight schedule as does the lower court. An appeal would be dealt with by the court within a few weeks to, at most, 2-3 months. During the entire time the clock is ticking, interest would accrue.

Myth 5: Even if the court ordered Musk to close, he would just ignore it.

Although some seem to think Elon Musk can get away with anything, and he has definitely ignored SEC consent decrees and certainly shows no care for regular social norms and conventions, there is simply no way he could get away with defying a Delaware court order. The court has many ways and means to enforce its orders and would not hesitate to use them. The court could start with daily fines, continue with threats of imprisonment for contempt, and could even appoint a receiver to act on Musk's behalf to sell his assets and close for him. As a reminder, Musk's main assets, his Tesla and Space-X shares, are both domiciled in Delaware and are under the court's jurisdiction. Defying a court order is not an option, nor has there been any indication given by Musk that he would attempt to do so. The idea here is just fanciful.

Myth 6: Bots are a serious issue. There are tons of bots on Twitter!

There may very well be tons of bots on Twitter and they may very well degrade the user experience, but as discussed above, this has no bearing on the issues at hand. The sole question before the court is whether or not Twitter's disclosures about its mDAU numbers, which are their estimate of accounts *after excluding bots*, are accurate. And that disclosure doesn't even guarantee the mDAU, just that Twitter has an estimate of how many bots escape their exclusion process and that their estimate could be wrong.

Myth 7: Why doesn't Twitter simply hand over the bot data that Musk requested? What does Twitter have to hide?

Twitter went far beyond their obligations under the merger agreement in providing Musk with huge amounts of data to analyze. That's because Twitter doesn't have anything to hide. There was no way to satisfy Musk because Musk didn't want to be satisfied.

Myth 8: Twitter faces a steep hill to prove their case against each of Musk's termination arguments.

Actually, Twitter does not have to prove more than that Musk breached the agreement, which he obviously did by unilaterally terminating. Musk's defense is that he had the right to terminate because Twitter had breached the agreement in various ways or had defrauded him or there was an MAE. No matter his claims, the legal burden of proof to prove his contentions that the contract no longer binds him rests on Musk, not on Twitter. This is simply the way contract law works.

Myth 9: Ultimately, this will settle for a few billion dollars or a renegotiated price between $30 and $40.

In the beginning, I did believe there was some risk of Twitter's board rolling over and accepting a token amount of money despite their strong case. As the case developed and it became clear just how strong their case was and how ridiculously weak Musk's position actually was, this became less and less likely. Although Twitter's board may or may not be master negotiators and may or may not be great managers of Twitter as a business, enforcing signed contracts as written is right up their alley. That's what buttoned-up suits do. And the board is quite aware that if they fold while holding all the cards, they will definitely be facing multiple shareholder lawsuits, and rightfully so. From the beginning, Twitter's board put up a strong front and declared that they were determined to close on terms. Probably they would have accepted a slight discount (say $51-$52 dollars a share) early on in the process in exchange for absolute certainty (although how would that be enforced with someone who simply backs out of signed contracts?), but Musk wasn't offering that. After the shareholder vote, even that was off the table, because it would require another lengthy delay, with another proxy and shareholder vote, and would frankly just add more uncertainty instead of less.

Myth 10: The US government will step in and block the deal from going through due to security and political concerns. The world's platform of ideas should not be in the hands of one rich individual.

This has been an idea circulating for a while. It has just recently gained more traction with media reports that administration officials are discussing subjecting Musk's ventures to national security reviews, including his proposed acquisition of Twitter. In actuality, this is all noise, with zero chance of the US government blocking the acquisition as there is simply no legal basis whatsoever to do so. Antitrust has no application here as Musk does not own or control any company in the same sphere as Twitter. CFIUS (Committee on Foreign Investment in the United States) reviews, another avenue thrown about with abandon,

would also not apply here as Musk, a US citizen, is not a foreign person. The US government is not about to label Elon Musk, who holds secret-level security clearance due to his Space-X work, a foreign agent. Although Musk is planning on including a few foreign co-investors (such as Saudi Arabian prince Alwaleed bin Talal, who is rolling over his current investment in Twitter) in his acquisition, they are not included in the agreement, and if their presence caused issues, Musk would have to close the acquisition by himself. In addition, any review would take far more time than what is available before closing, currently scheduled for on or before October 28th. (CFIUS has the ability to force acquirers to divest after a transaction is completed as well.)

Myth 11: The banks financing the debt portion of the acquisition will back out, which will allow Musk to terminate the agreement without penalty.

It is true that if the banks walk away from the financing, Musk, although still obligated to close on the transaction, would no longer be subject to the threat of specific performance (according to the agreement's terms). There is still nothing to fear on this front. Firstly, the banks' commitments are just as tight as Musk's himself, and they have no ability to walk away absent an MAE. Secondly, the banks are far more professional, with their long-term reputations in the merger space to consider, and they will not attempt to pull the transparent shenanigans that Musk has been trying. Thirdly, Musk is obligated by the agreement to pursue all avenues available to him to achieve the financing, including by suing the banks and/or arranging alternative financing, and Twitter would use the court to force Musk to fulfil these obligations. Fourthly, and perhaps most importantly, precedent in the Delaware Court of Chancery shows that if the banks were to back out at this point, the blame would be placed at Musk's feet for blowing up the financing and/or delaying the closing to the point that the financing fell through, and under the prevention doctrine, the court would order Musk to close anyways, using his own assets (despite this technically going beyond what the agreement calls for).

Myth 12: Elon Musk is Elon Musk. He is the richest person in the world and can get away with anything.

Elon Musk is Elon Musk, and Elon Musk can get away with lots of stuff that regular mortals cannot. But the Delaware Court of Chancery will not be impressed. The law is the law and the court will rule wherever the chips may fall, which in this case is in Twitter's favor against Musk.

Trial Progress

The progress in the trial process so far has come fast and furious, with the acrimonious litigation spawning numerous disputes that the court has had to rule on. In the few months since the lawsuit was filed, there have been close to two dozen motions before the court, with no less than four multi-hour hearings and countless briefings. The Delaware Court of Chancery runs a relatively transparent court, which has opened a window both into the parties' respective positions and the court's opinion thereon.

From the first, Chancellor McCormick (who, recognizing the sensitive and complex nature of the case, assigned the case to herself) ran a tight no-nonsense ship, while being scrupulously fair to both sides and the law. The first major dispute was whether to expedite the case, with Twitter wanting a highly expedited case with trial in September and Musk arguing for an extensive discovery process and trial in February. Chancellor McCormick specifically recognized the irreparable harm Twitter is facing, and consistent with the court's past practice for such merger cases, set trial for mid-October, the first major win for Twitter.

During the discovery process, Musk's side both pushed aggressively for ridiculous data and document production from Twitter (reminiscent of their earlier aggressive "information requests") and withheld their

own legally required production, to the point of exasperating the court at times. Chancellor McCormick referred to Musk's discovery production at different times as "suboptimal", having "clear deficiencies", and having "fell short in their obligations". As for Musk's discovery requests from Twitter, the Chancellor categorized them as "absurdly broad" and something "no one in their right mind has ever tried to undertake". Chancellor McCormick denied Musk's various attempts to delay the trial through the discovery process, and although allowing Musk to amend his counterclaims multiple times, refused his request to thereby push off the scheduled trial date.

In truth, Musk's legal team had a poor hand to play, with little support in either the facts or the law for their side of the dispute. For anyone following the proceedings in detail, the outcome was all but inevitable.

Abrupt About-Face

Apparently even Musk finally realized the futility of fighting the agreement in court, and on October 3rd, Musk made an abrupt about-face, representing that he was now prepared to close and asking for a stay of the lawsuit to allow him to do so. After a bit of back-and-forth between the parties and the court, Chancellor McCormick stayed the litigation until 5 PM October 28th, the day that Musk represented he'd be able to close by. (It is not clear why Musk needed almost a month to close the acquisition, but it may be due to the need to be after Tesla's third quarter report on October 19th, after which the quiet period for Tesla insiders ends, allowing Musk to raise more cash through sales of Tesla shares.)

All indications are that Musk is serious about now closing the deal, and subsequent leaks from Twitter and the banks involved have indicated that preparations are proceeding and the closing is expected to occur on or before October 28th, as planned. In that scenario, which is the overwhelmingly most likely scenario, we would be looking at a gain of a little under 80% in just under five months. (We took advantage of the opportunity presented through carefully chosen long-term options, which allowed us to benefit even more than the ~40% gain available through investing outright in equity.) If for some reason this ends up back in Chancellor McCormick's court, although this would undoubtedly provide further volatility and a chance to re-invest in the arbitrage opportunity, we fully expect her to order specific performance without hesitation, as she has done in the past in similar cases. So, we are looking at an 80% gain realized by the end of this week or the same 80% gain realized after another 2-3 months.

Conclusion

We found the level of misinformation surrounding the Twitter acquisition, both in the general media and in the investor community in particular, to be frankly astonishing. The gap was too large nearly from the beginning. As time progressed and more and more information came out, revealing the strength of Twitter's position and the weakness of Musk's position, the gap barely budged, even as it became abundantly clear that the deal would close on terms, one way or another. Only very recently has the gap started to close, as we finally approach the endgame. As we said to start with, the Twitter acquisition is truly in the running for consideration as the merger arbitrage of the century. And all that it took to profit from it was a willingness to wade into the details and truly understand the facts and the law.