

## **Digital World Acquisition Corp (DWAC)**

### ***The Truth About Deal Risk***

We are short shares of Digital World Acquisition Corp. (DWAC), a SPAC valued at over \$8bn on a pro forma basis, because we believe it will never secure the necessary regulatory approval to close its proposed merger with Trump Media & Technology Group (TMTG). While recent pressure on DWAC shares has been attributed to the executive exodus at TMTG and Elon Musk's interest in acquiring Twitter, DWAC's stock has much further to fall given the demonstrably misleading statements in DWAC's registration statement, the status of TMTG's operations at the time the merger agreement was executed, the cast of characters seeking to consummate that merger and those individuals' flagrant disregard for SEC rules and regulations. DWAC is not just another dubious 2021 SPAC; it is a poster child for some of the worst abuses the investment vehicle has spawned.

Recent SEC actions confirm that 1) the agency is serious about reining in a financial sector widely regarded as rife with potential fraud and conflicts of interest, and 2) SPAC enforcement investigations are priority matters within the commission. In DWAC, the SEC has been handed textbook examples of the types of SPAC-related misconduct that it is intent on shutting down. And, given DWAC's and TMTG's exceptionally high profile, an aggressive enforcement action would be an ideal way for the SEC to send a loud, unmistakable message to the industry. DWAC has admitted it is under SEC investigation for statements made in its S-1, as well as the timing and circumstances surrounding its proposed merger with TMTG. A prime actor in this affair is an obscure Chinese investment firm, ARC Group, that has been repeatedly punished by the SEC for lying about the true nature of businesses that turned out to be shell companies. Investors should abandon the fantasy that DWAC's problems can be easily remedied with amended disclosures and a nominal fine. Contrary to the uninformed views of bulls, the SEC *does* have the ability to effectively kill the proposed merger, using, ironically, the same mechanism it used to kill three of ARC Group's companies just five years ago.

Truth Social's disaster of a launch, among many other red flags regarding TMTG, raise valid concerns over execution and the company's long-term viability. But more importantly, these factors raise serious doubts regarding the scope of due diligence DWAC conducted in the six weeks between its IPO and execution of the TMTG merger agreement. Starting a social media platform from scratch, particularly one linked to the former President, requires experienced leadership and resources across a host of critical technical disciplines. In addition, as the post-merger surviving operating business, TMTG would reasonably be expected to have the infrastructure necessary to function as a public company. Yet, none of that remotely existed when DWAC signed the merger agreement with TMTG. By all indications, in October 2021 TMTG was a shell company with no or only nominal operations. To gain SEC approval of a supposedly forthcoming S-4, DWAC needs to accurately detail the extent of the due diligence it conducted regarding TMTG within just six weeks, as well as explain the specific reasons why it believes merging with a de facto shell company is in DWAC shareholders' best interests. Given these challenges we think there is significant risk DWAC never files an S-4 at all.

Six weeks into Truth Social's bungled launch, senior executives are already fleeing. Six months after the merger, DWAC still hasn't filed even an initial S-4. With each passing day, the truth becomes harder to deny; a merger between two sketchy companies that is already taking too long is likely headed for collapse. We value DWAC at the cash held in trust: \$10 (-80%).

**Disclaimer:** As of the publication date of this report, Kerrisdale Capital Management, LLC and its affiliates (collectively, "Kerrisdale"), have short positions in shares of Digital World Acquisition Corp. ("DWAC" or "the Company"). Kerrisdale stands to realize gains in the event the price of DWAC shares decrease. Following publication, the Authors may transact in the securities of the Company. All expressions of opinion are subject to change without notice, and the Authors do not undertake to update this report or any information herein. Please read our full legal disclaimer at the end of this report.

## Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>COMPANY OVERVIEW .....</b>	<b>4</b>
<b>S-4 PROCESS HAS BEEN DE-RAILED AND LIKELY DOOMED .....</b>	<b>5</b>
The SEC is Actively Investigating DWAC.....	5
DWAC's S-4 Process with the SEC Has Not Even Begun .....	6
TMTG Was a Bogus Media Company at Merger Announcement.....	7
Who is Building Truth Social? .....	8
The SEC Can Effectively Kill the Deal .....	10
<b>KEY PLAYERS IN THE PROPOSED DWAC-TMTG MERGER .....</b>	<b>11</b>
Patrick Orlando and his Many Roles.....	11
50 Shades of ARC.....	11
When EF Hutton Talks, People (Shouldn't) Listen.....	12
<b>DWAC'S PATH TO MERGE WITH TMTG .....</b>	<b>13</b>
Key Events Leading up to the Merger Announcement.....	14
Suspension of S-1 Would Eliminate Possibility of Closing Merger .....	16
<b>BOTCHED TRUTH SOCIAL LAUNCH A SIGN OF FURTHER CHALLENGES AHEAD .....</b>	<b>17</b>
<b>PROJECTIONS UNDERWRITTEN BY FLIMSY ASSUMPTIONS .....</b>	<b>18</b>
<b>PIPE TERMS WILL LEAVE RETAIL INVESTORS HOLDING THE BAG .....</b>	<b>19</b>
<b>CONCLUSION .....</b>	<b>20</b>
<b>APPENDIX I: ORLANDO RELATED ENTITIES .....</b>	<b>22</b>
<b>APPENDIX II: TIMELINE OF KEY EVENTS .....</b>	<b>23</b>
<b>APPENDIX III: TRANSACTION OVERVIEW .....</b>	<b>25</b>
<b>FULL LEGAL DISCLAIMER.....</b>	<b>26</b>

## Executive Summary

**DWAC's proposed merger with TMTG faces massive regulatory and legal risks.** DWAC's merger is still dependent on regulatory and shareholder approval. As a condition to closing the transaction, DWAC must have an effective registration statement on an S-4 that, among many other requirements, accurately details: the identities and affiliations of all relevant parties, the nature and scope of the target's business operations, and credibly demonstrates the thoroughness of DWAC's due diligence in recommending the deal to its Board. Given the mountain of red flags that encompass nearly every aspect of this proposed merger, we believe DWAC will never file an S-4 and if it does, it will never go effective.

**Flurry of negative developments further threaten merger prospects and exacerbate operational challenges.** On March 30<sup>th</sup>, the SEC proposed sweeping new rules designed to better align the disclosure requirements and rules governing SPACs with those of traditional IPOs. On April 4<sup>th</sup>, [Reuters](#) and [Politico](#) reported Truth Social's CTO and Chief Product Officer, as well as TMTG's Chief Legal Officer, quit after the app's mistake-riddled launch, gutting an executive team that already lacks expertise. Former Representative (R-CA), Devin Nunes, assumed the CEO position in January 2022 with zero prior tech company experience. Also on April 4<sup>th</sup>, Elon Musk disclosed purchasing a 9.2% stake in [Twitter](#), quashing loose speculation that he would support a competing new service and sparking concerns that reinstatement of former President Trump to Twitter would make Truth Social [irrelevant](#). On April 12<sup>th</sup>, DWAC filed an (untimely) 10-K that omitted important disclosures, among other problems.

**The SEC can and likely will use DWAC to send a message to market participants.** DWAC is under active investigation by the Enforcement Division of the SEC. Issues of SPACs' disclosures and ways to hold them more accountable for their due diligence are now foremost at the Commission. In DWAC, the SEC has been handed a litany of abuses which speak directly to its new policing efforts and involve a recidivist in ARC Group. One shouldn't bet on anything but the whole book (and then some) being thrown at DWAC – and that includes a stop order which would effectively kill a deal in its tracks. Reddit bulls hiding behind the factually accurate but toothless argument that “the SEC does not have authority to block mergers” and claiming regulatory risk is mere “FUD” are completely ignorant of the legal realities.

**PIPE financing enriches institutional investors at retail's expense.** Announced after DWAC became a meme-stock sensation, the company's mammoth \$1bn PIPE financing allows presently unidentified institutions to receive shares at up to a 40% discount, short the stock, and flip their positions the day after the merger closes. As such, the PIPE doesn't represent any vote of confidence in a compelling media company by sophisticated institutional investors – it's simply a way to incur minimal risk while fleecing retail shareholders. The SEC will not look kindly on this.

**Valuation is absurd and financial projections are based on the flimsiest of assumptions.** TMTG has a few months of largely pathetic operating history, no financial performance to speak of, and is already suffering from executive departures. Yet the pro forma company is valued at an incredible \$8.2bn. Subscriber projections for Truth Social are based solely on an unreliable [Politico poll](#), while the TMTG+ SVOD service is supposed to miraculously win 50% of Netflix's US subscriber base by 2026 by streaming “non-woke” entertainment without any explanation as to how it will afford billions of dollars in content.

## Company Overview

DWAC is a blank check company (aka Special Purpose Acquisition Company or SPAC) explicitly formed for the purpose of effecting a merger or similar business combination with one or more (theoretically unidentified) business targets. In early September 2021, DWAC [IPO'd](#) at \$10 per unit, generating gross proceeds of \$287.5m. DWAC wasted little time in applying the newly raised cash, announcing a merger in October 2021 with TMTG, a private entity apparently owned and controlled by former President Donald Trump.

The transaction valued the proposed business combination at \$875m, with potential earnouts depending on post-business combination stock price performance, bringing cumulative valuation up to \$1.7bn. News of the proposed merger sent DWAC's stock price skyrocketing. In a move widely attributed to [retail meme stock](#) enthusiasm for TMTG, shares of DWAC increased at one point 17x to \$175 before settling in the \$60 range over the following month. In early December 2021, DWAC seized on this retail interest, announcing a \$1bn PIPE investment from a group of unnamed institutional investors with terms that guarantee instant, virtually risk-free returns if the business combination is consummated (much more on this later).

TMTG's stated mission is to "fight for the First Amendment protections and freedom of all Americans, protect democracy, and defend capitalism." To do so, TMTG aspires to create "a media powerhouse" which disrupts the "liberal bias and dangerous exercise of tech monopoly censorship" allegedly practiced by Twitter, Facebook, Netflix, and Google. Two technology platforms form the "foundation" for TMTG: Truth Social, a Twitter-like social media platform that will be "catalyzed by the existing Trump universe" and launched (sort of) in February 2022, and TMTG+, a non-existent on-demand streaming service that will provide "non-woke" entertainment.

TMTG has limited operating history, one marginally functioning product, and no revenue. It has no proprietary technology. For reasons explained later in this report, it is highly improbable there is any lasting, binding contractual IP agreement between Trump and TMTG. Nevertheless, TMTG's forecasts breezily call for generating over \$1.8bn in just 4 years based on capturing 50% of Twitter's monetizable daily active users and 40% of the Disney+ subscriber base.

DWAC's merger is still pending regulatory and shareholder approval. In early December 2021, DWAC disclosed that its proposed merger is under investigation by the SEC and that it had received a request for information from FINRA related to trading activity preceding the public announcement of the agreement. Contrary to the views of bullish (uninformed) retail investors, the SEC process to approve the merger is *not* on a near-term path to a favorable resolution; it has been irrevocably derailed, and the deal is effectively facing termination as the SEC investigation gathers steam.

Despite this mountain of red flags and risks, DWAC shares have continued to outperform in a weak tape for SPACs and speculative growth stocks. At the current price, DWAC's pro forma valuation stands at over \$8bn, roughly one third the value of Twitter prior to news of Musk's stake in the platform.

### DWAC-TMTG Pro Forma Valuation

\$ Millions except per share data

DWAC Share Price	\$50.00
DWACW Warrant Price	\$14.91

Class A Common Shares	185
Warrants	15

Common Equity	\$9,235
Warrants	224
Total Equity Value	\$9,459

Net Cash	(1,254)
Enterprise Value	\$8,204

*Source: Company investor presentation, November 2021, Kerrisdale analysis. Assumes full earn out given current share price.*

## S-4 Process Has Been De-Railed and Likely Doomed

*“There is huge risk the SEC will shut it down.”*

— [Thomas Gorman](#), Partner at Dorsey & Whitney, former Senior Counsel, SEC Division of Enforcement

DWAC’s ability to close its merger with TMTG is materially threatened along two distinct but inextricably linked regulatory paths: the need to file and have deemed effective an S-4 registration statement regarding the proposed merger with TMTG, and the active SEC investigation into material misstatements contained in DWAC’s S-1. If the “DD” found on Reddit boards is a reliable indication, market understanding of these compound risks is abysmal. We begin with the intractable challenge DWAC confronts in obtaining an effective S-4 and why any hope that a merger could be finalized in the coming months is fantasy.

### ***The SEC is Actively Investigating DWAC***

First, it’s worth clarifying the misconception that DWAC is somehow facing something less than a serious, active investigation by the SEC. In early December 2021, DWAC [publicly disclosed](#) that in late October 2021, FINRA had launched an inquiry into suspiciously timed trading in DWAC shares, and that in early November 2021, DWAC had received a request from the SEC for, among other things, documents regarding DWAC Board meetings, trading policies, investors’ identities, and documents and communications between DWAC and TMTG.

DWAC has taken great pains to underscore that the SEC’s and FINRA’s investigations don’t “mean that the [regulators] ha[ve] concluded that anyone violated the law or that the [regulators] ha[ve] a negative opinion of DWAC or any person, event, or security.” DWAC investors seem to have taken this language at face value and without realizing that such disclaimers are



meaningless boilerplate. As explained by a former Senior Counsel with over a decade of experience in the Enforcement Division of the SEC, there is no meaningful distinction between an inquiry and an active investigation because the Enforcement Division – the Commission’s investigatory arm – is the only branch of the SEC with customary authority to make document “requests” (which, if not complied with, promptly become document “demands” pursuant to a subpoena.) The Enforcement Division has virtually unlimited subpoena power at its disposal, if necessary, and has very few resource constraints. It can take all the time it needs to conduct as thorough and comprehensive an investigation as it wishes to in order to be satisfied that it has ferreted out any and all misconduct – and the agency doesn’t care whether an Enforcement investigation derails merger timelines. (One recent [study](#) based on data obtained from the SEC itself found that “that the average investigation lasts slightly over *three years*.”) The mental image for investors of this “request” shouldn’t be some routine, check-the-box, technicality. The SEC is actively obtaining and pouring through all forms of communication, and already has, or shortly will, require individuals with relevant information to appear in person and answer (virtually any) questions under oath. The SEC will likely be especially relentless and thorough given the high-profile nature of the case, as well as the repeat offenses of one of the key parties involved. In short, we believe the SEC’s investigation is a serious matter reflecting significant regulatory risk.

DWAC’s recently filed (untimely) 10-K omits any mention of ever having received document requests from the SEC and FINRA, let alone an update on these important matters. Rather than taking comfort in the absence of additional disclosure, however, investors should be increasingly concerned. According to [applicable](#) court precedents, DWAC is *not* obligated to provide updates to, or even acknowledge the continuing presence of, an SEC investigation in periodic financial reports, so long as the likelihood of litigation is not yet fully known. An [exemption](#) to this rule is when a company under investigation is conducting a securities offering. This distinction explains why DWAC’s third quarter 2021 10-Q filed on November 22<sup>nd</sup> also does not mention the SEC or FINRA investigations (despite ample opportunity to do so) and DWAC’s sole disclosure of these important matters is buried at the end of an 8-K in conjunction with the closing of its PIPE financing in early December 2021.

If, as misguided bulls believe, the SEC has closed its investigation without pursuing any enforcement action, DWAC would have received a [“termination letter”](#) from the agency stating its inquiry had been satisfactorily concluded – an event that issuers are invariably thrilled [to disclose](#). Instead, DWAC’s continued and complete silence on regulatory matters should lead to the obvious conclusion that both FINRA’s or the SEC’s investigations are ongoing, probably expanding and unlikely to end in anything but an enforcement action.

## ***DWAC’s S-4 Process with the SEC Has Not Even Begun***

Bullish investors who attribute the lack of progress on DWAC’s S-4 to the company’s preference to include more of Truth Social’s performance figures fail to understand the scope and purpose of the filing. An S-4 lays out the necessary disclosures regarding, among other things, what went into DWAC’s decision to merge with TMTG – *at the time of the merger* and based on diligence conducted (allegedly) in only the six weeks between DWAC’s IPO and the TMTG merger announcement. There is no meaningful basis for waiting to include what TMTG has accomplished in the months after agreeing to the deal. The merger agreement expressly directs both parties to immediately begin working together on an S-4 upon signing. Draft registration statements are commonly submitted less than two months after the announcement of a business combination involving a SPAC (and that’s for businesses that have substantial

operations). Yet here we are, six months later and counting, without DWAC filing *any* S-4, an obvious sign of the seriousness of the SEC investigation.

SPACs are permitted to submit one confidential S-4 during their first year of existence. Noting this, DWAC CEO Patrick Orlando had [hinted](#) at the possibility that DWAC has at least initiated the process, but his lack of transparency on the matter should have given investors pause. Though there is no obligation to disclose whether a filing has been made, it is common [SPAC](#) industry practice to [voluntarily issue press releases](#) to update shareholders and signal that the regulatory process is proceeding comfortably apace. After all this time, if an S-4 had been filed confidentially, why not assuage anxious investors that this important step has been taken?

The answer becomes all too clear in [DWAC's 10-K](#), filed on April 13, 2022 – by its own admission, DWAC has not filed any S-4 (confidential or otherwise) with the SEC. The company repeatedly claims that it “intends to file with the SEC the Form S-4, which will include a preliminary proxy statement of the Company, and a prospectus in connection with the proposed Merger...please see the Form S-4 which the Company intends to file after the filing of this [10-K].” Bullish investors may take (unwarranted) comfort in DWAC's most recently disclosed intentions regarding this long-awaited filing. We remain, however, highly skeptical. The same cheap promise was included in DWAC's [3Q 10-Q](#): For more information, “please see the Form S-4 which the company intends to file after the filing of this Quarterly Report”).

Contrary to DWAC's perpetually future intentions, we believe it has never had any reasonable hope of filing an S-4 that the SEC would allow to go effective. Unlike periodic reports – which as a rule need not include disclosures regarding SEC investigations – offering documents such as an S-4 and related proxy materials must include all information that might be material to a would-be investor's decision to participate in the offering – including fulsome information about any open SEC investigations. Given the facts as we know them, filing an S-4 that publicly discloses details of an investigation might expose DWAC's insiders, as well as certain highly prominent individuals, to meaningful legal risk. In addition, and quite aside from SEC concerns, we know (from the [S-4](#) filed by an affiliate of DWAC's sister SPAC) that as of late August 2021, TMTG still lacked audited financials and other key contracts. All of these items are necessary for an acceptable S-4. Given that in the past six months, DWAC hasn't made a single filing containing substantive information about TMTG, investors who think the necessary filing will miraculously soon appear and address all the substantial issues of securities law and disclosures in one fell swoop are delusional.

### ***TMTG Was a Bogus Media Company at Merger Announcement***

While presently TMTG could be generously described as a fledgling company with a flawed prototype, prior to and at the time of merger signing – the period the SEC will be most concerned with – TMTG constituted even less, and this in itself is a significant regulatory hurdle. Indeed, in November 2021 – a month *after* the merger was signed -- TMTG's Investor Presentation essentially admitted that TMTG was no more than a shell company with no or nominal operations, stating that Trump and TMTG “*intend to create a media and technology company* rooted in social media...” (Emphasis added.) The presentation noticeably excludes mention of senior management as the current CEO and [COO](#) of TMTG were only named in December 2021, two months after the merger was signed. One of the main benefits oft cited for SPACs is the vehicle's ability to provide public investors earlier access to emerging growth companies. Accelerating a company's development through access to the public markets is one

thing; attempting to take public only the vague outlines of an idea for a business is wholly another.

The SPAC boom of the past two years has resulted in so many publicly traded rocket launch companies that fail to reach orbit and truck companies that don't roll (at least not without a hill), it's easy to forget that merging with a SPAC is not supposed to allow any wisp of a company to gain public market access by gaming regulatory regimes. The overriding objective in the SEC's recently announced new rules governing SPACs is to eliminate the gaps in disclosure requirements, due diligence, and liability that presently exists between companies mature and legitimate enough to go public through a formal IPO, and those that seem to make a mockery of the process through a SPAC merger. TMTG's utter lack of legitimate business indicia puts its merger with DWAC squarely in the latter group, rendering the task of filing an S-4 the Commission will find adequate, extremely difficult.

Here is a list of attributes typically found in SPAC targets and/or reasonably expected to find in a young social media app, but *not* materially present in TMTG in October 2021:

- Customers
- Working product(s)
- Executive team with relevant experience
- Developers to fully build out a social media app and streaming video business
- Infrastructure to support a social media app and streaming video business
- Corporate infrastructure – legal, HR, accounting, etc.
- Financial or operating history of any kind
- Cash resources from previous, private, fundraising efforts
- Corporate headquarters not listed as the Mar-a-Lago Club with a phone number that connects to the club's front desk
- Valuable IP or patents

Any argument that TMTG derives value by virtue of securing Trump IP, is speculative and highly improbable given certain provisions of the merger agreement. For example, if Trump runs for office or is found guilty of a felony are events explicitly defined as a Material Disruptive Event. The merger agreement requires Trump to structure his ownership and position to avoid negatively impacting the post-merger company should a Material Disruptive Event occur. The provision serves to separate and protect post-merger TMTG from any negative impacts from such events. The agreement also includes unusual language whereby DWAC acknowledges, "the controversial nature of being associated with the Company Principal [defined as former President Donald J. Trump] and the Company Principal's family." Lastly, while six officers including the CEO, CFO, and COO are named as key employees in the agreement, Trump, whose title is Chairman, is noticeably *not* included. The former President is not listed on disclosures as an officer or major investor in the SPAC. Taken together, these provisions suggest that the possibility DWAC/TMTG has a valuable, lasting, and binding IP contract to use the former President's brand or image is virtually nil.

## ***Who is Building Truth Social?***

While nearly all of DWAC's scant disclosures point to TMTG's barely existent nature, perhaps no disclosure better illustrates TMTG's emptiness than slide 21 in its November 2021 investor presentation "describing" the company's "Technology Team." Building and scaling a social media app, particularly one that bears an affiliation with Trump, while promoting a restrained








approach to censorship is no easy task. Significant engineering resources and processes are needed to manage system resilience, security (hacks have been a problem from even [before](#) Truth Social formally launched), data privacy, in-house legal, content moderation, and customer service. There is arguably no diligence item or investment selling point of greater importance than the identities of the technology team and their experience.

And yet, here's the extent of what TMTG has publicly disclosed regarding its technology team:

**TMTG Technology Team (Maybe)**

**Technology Team<sup>1</sup>**

Leadership	Prior Experience
<div style="display: flex; justify-content: space-around;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Josh A. CTO</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Billy B. CFO</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Vlad N. COO</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Ryan L. CSO</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Steve E. VP Engineering</div> </div>	
<b>Backend and Structure</b> <div style="display: flex; flex-wrap: wrap; justify-content: space-around;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Tom M. Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Ryan L. Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Mortada A. Backend/Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Brandon B. Backend/Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Simo S. Backend</div> </div> <div style="display: flex; flex-wrap: wrap; justify-content: space-around; margin-top: 5px;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Chris W. Database</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Alex K. DevOps/Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Bryan S. Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Philip L. DevOps</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Daniel M. L &amp; P Testing</div> </div> <div style="display: flex; flex-wrap: wrap; justify-content: space-around; margin-top: 5px;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Kyle F. L &amp; P Testing</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Justin E. Backend/Backend</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center; width: 15%;">Bret B. Backend</div> </div>	
<b>Frontend</b> <div style="display: flex; justify-content: space-around;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Alex G. Front End</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Alex K. Front End</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Adam D. Front End</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Neim E. Front End</div> </div>	
<b>Mobile</b> <div style="display: flex; justify-content: space-around;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Ben S. Sr. Mobile Dev</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">BJ Sr. Mobile Dev</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Mark H. Sr. Mobile Dev</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Ray L. Mobile</div> </div>	
<b>Product</b> <div style="display: flex; justify-content: space-around;"> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Sandro M. Sr. Product Manager</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Chris D. Product Manager</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Peter D. Product Manager</div> <div style="background-color: #0056b3; color: white; padding: 5px; text-align: center;">Eddie L. Product Manager</div> </div>	

(1) Personnel subject to change

*Source: DWAC [investor presentation](#) November 2001.*

The identities of every member of the “Technology Team” have been obfuscated in the presentation. The slide omits each person’s last name. Furthermore, rather than attributing “prior experience” to each person and providing a description of their roles at their former companies, it merely includes a scattering of unassigned corporate logos, the majority of which have nothing to do with social media or tech startups. Did “Ryan L.” the CSO work at Little Debbie Snacks or was it the other “Ryan L.” who works in DevOps? And what exactly did Ryan L. do for Little Debbie that is relevant to building a social media platform from scratch? The barely legible footnote at the bottom reads “Personnel subject to change,” in case the usefulness of the slide wasn’t in doubt enough. We have been unable to connect any of the individuals from this slide to TMTG or Truth Social on LinkedIn. The recent news that TMTG’s two most senior technical experts, CTO “Josh A” and Chief Product Officer “Billy B.”, have quit following the app’s poorly executed launch casts even more uncertainty as to who is presently responsibly for the day-to-day development and security of the app. Every day that passes without progress on the app squanders what little momentum it still enjoys post-launch, and heightens the risk frustrated users on the waiting list give up and/or gravitate to any of several competing conservative-leaning platforms.

## ***The SEC Can Effectively Kill the Deal***

While the SEC does not have authority to directly block a merger, it regularly accomplishes the same outcome through a Stop Order proceeding. When a company makes numerous material misstatements and omissions on a registration statement (i.e., S-1 or S-4) relating to (1) the identities of officers, directors, promoters, *et al.*, (2) related party transactions, and/or (3) the nature of their operations, a Stop Order can suspend the effectiveness of that registration statement, thereby blocking the sale or issuance of shares to the public.

As we later detail, ARC Group, a Shanghai-based sponsor and adviser behind DWAC (and BCAC), has a history of creating and financing shell companies that run afoul of SEC rules. In the 2017 [stop orders](#) that killed three ARC Global companies, among a host of other misrepresentations and omissions regarding the identities and affiliations of the individuals involved, the agency specifically cited gross misstatements of the true nature and scope of the entities, which were actually just shell companies.

An effective S-4 registration statement is a closing condition under the terms of the merger agreement and the PIPE financing. A stop order would effectively end any hopes of closing the deal. As a practical matter, however, we believe it just as likely DWAC never files an S-4 in the first place. As Charles [Whitehead](#), professor of business law at Cornell Law School explains, “You don’t want a stop order because it’s such a black mark. Normally, if there is an irreconcilable difference with the SEC, you withdraw your registration statement.”

The cast of characters at ARC Global who had their shell companies terminated by the SEC in 2017 are the exact same ones who now have their fingerprints all over DWAC and its pending merger. Not only does the SEC have the capability to effectively kill the merger, but it also has reason to be particularly aggressive in its adjudication given the recidivist nature of the participants. An effective S-4, already made difficult given the shell company nature of TMTG, is further complicated by the SEC’s ongoing investigation into DWAC’s S-1, the circumstances leading up to the proposed merger, and misstatements that jeopardize DWAC’s very corporate existence.

## Key Players in the Proposed DWAC-TMTG Merger

### *Patrick Orlando and his Many Roles*

At the center of the “[robust mélange of dubious entities](#)” involved in the DWAC-TMTG proposed merger is Patrick Orlando. Among multiple job titles:

- Orlando is the Chairman and CEO of DWAC. Orlando also serves as Managing Member of DWAC’s Sponsor, ARC Global Investments II, LLC.
- Orlando is also Chairman and CEO of another SPAC, Benessere Capital Acquisition Corp. (BCAC). ARC Global Investments, LLC, again with Orlando acting as its Managing Member, acts as BCAC’s Sponsor in all respects.
- In addition to serving as the Chairman and CEO of the two SPACs discussed above, [Orlando is also](#) the CEO of an entity named Benessere Capital LLC; the director and/or “Special Advisor” to at least three other blank check companies; and the managing member of Benessere Investment Group LLC, a company which focuses on creating and managing SPACs, including both BCAC and DWAC.

The many distinct but overlapping positions that Orlando holds at DWAC, BCAC and related investment groups are a pivotal factor in assessing the regulatory risk surrounding the circumstances of the proposed DWAC-TMTG merger (See: Appendix I for a diagram of Orlando related entities).

### **50 Shades of ARC**

ARC Group-related entities are sponsors for both DWAC and BCAC. That is not mere coincidence. ARC-related individuals and entities pervade a variety of facets of the relevant blank check companies, their management, their financial advisor, their sponsor, the merger transaction, the underwriter, and so on. Reliable information about ARC and its affiliates is not easily located; however, piecing together bits of information from sometimes obscure sources (as the SEC is in its ongoing investigation) reveals a fairly clear picture of a multi-tentacled entity with elements of control over the companies and transactions involved with DWAC.

ARC Capital was a Chinese investment bank and financial services firm founded in 2015 by CEO Abraham Cinta, a Mexican national, with help from colleagues and current ARC Managing Partners, [Carlos Lopez](#) and [Jesus Emilio Hoyos Quintero](#). In 2015 and 2016, ARC Capital tried to orchestrate IPOs in the U.S. for at least three companies. Cinta’s approach to bringing companies public in the U.S. is captured in a [Washington Post](#) interview. According to former ARC employees, “Cinta often remarked that U.S. securities regulators were generally looser with rules around registering public companies than Chinese and Hong Kong Regulators, so it would be easier to take unproven, early-stage businesses public.” It was therefore likely to ARC’s dismay that the SEC concluded that the three companies egregiously lacked even basic indicia of credibility or legitimacy, and in 2017, the agency obtained stop orders suspending their registration statements; in short, the SEC killed the three companies.

By 2020, [ARC Capital's Management Team](#) consisted of 12 people. Notably, at the time, Orlando was listed as a "Senior Advisor" and a member of the ARC Capital Management Team. Since then, we sense that ARC and/or Orlando have tried to [downplay](#) that fact – for instance, ARC Capital removed the relevant org chart from its website (which itself no longer exists) and the full extent of Orlando's affiliation with ARC isn't fully disclosed in the S-1s filed on behalf of BCAC, DWAC, or any other blank check company or in the publicly filed investor presentations.

### ***When EF Hutton Talks, People (Shouldn't) Listen***

BCAC and DWAC have more than ARC and Orlando in common, they also share a banking relationship with EF Hutton. This is not the EF Hutton that became a [household name](#) in finance in the 1970s and 1980s. EF Hutton is an investment bank formerly known as Kingswood Capital Markets which rebranded itself in June 2021, and served as the sole underwriter for both BCAC's and DWAC's IPOs. It is also acting as the sole financial and capital markets adviser to both BCAC and DWAC. EF Hutton has played similar roles in many other transactions orchestrated by ARC offshoots. It seems to us that EF Hutton is somehow affiliated to ARC Group – an ARC affiliate, Platinum ARC Holdings, LLC, actually holds the [trademark](#) to the name "EF Hutton" (and presumably licenses it to the former Kingswood). And the ties are deeper – EF Hutton itself has decided to get into the SPAC business by filing an [S-1](#) registration statement for "EF Hutton Acquisition Corp." using (not surprisingly) Platinum ARC Holdings, LLC as its Sponsor.

ARC Group's affiliation with EF Hutton, purportedly an independent underwriter and financial advisor, is not merely speculation on our part. In connection with a federal lawsuit in New York, a company that was dissatisfied with its former investment advisor ARC Capital, alleged in [its pleadings](#) that in August 2020, Cinta disclosed to the company's CEO that Cinta actually was an owner of Kingswood. (Because the case is still pending, no factual findings have been made regarding this point, but, notably, the opposition does not challenge the accuracy of the statement).

## Is ARC an Owner of EF Hutton?

16. In August 2020, Mr. Cinta disclosed to Mr. Cesario that Mr. Cinta was also an owner of Kingswood. Mr. Cinta's failure to disclose this conflict of interest was a material misrepresentation and/or omission of fact.

17. Mr. Cinta's conflict of interest was not disclosed at the time of the execution of the purported Placement Agreement, and still has not been formally disclosed, by Kingswood or Benchmark, to YCTI.

### FIRST CLAIM FOR RELIEF (Fraudulent Inducement)

18. YCTI refers to and incorporates by reference the allegations contained in Paragraphs 1 through 17 as fully set forth herein.

19. Mr. Cinta represented to YCTI that he had worked with Kingswood in the past and encouraged YCTI to engage with Kingswood.

20. Mr. Cinta negotiated terms by which Kingswood would act on YCTI's behalf to identify and secure purchasers of YCTI's securities.

21. At all relevant times, Mr. Cinta was an undisclosed owner and/or agent of Kingswood.

Source: Case No. [1:21-cv-02279-JPC](#), US District Court, Southern District of New York.

If true, the allegations that ARC Capital and/or Cinta actually *have ownership in* EF Hutton reveal a conflict of interest. Either way, however, it seems that ARC Group – a Chinese SPAC factory with prior missteps, a business plan designed to exploit the United States' capital markets, and the knowledge that in China it is potentially beyond the jurisdiction of the SEC – has co-opted EF Hutton to serve as its go-to underwriter and financial advisor. By our count, of the 39 SPAC IPOs EF Hutton acted as sole or lead book-runner in 2021, roughly *half* involve this obscure Chinese investment firm as financial advisor. EF Hutton is supposed to be independent and act only in accordance with its fiduciary duty to DWAC, but, in light of the symbiotic relationship between EF Hutton and ARC Group, one wonders if it is little more than ARC's puppet?

## DWAC's Path to Merge with TMTG

Despite TMTG's new CEO's cheery [assurances](#) that everything is going along swimmingly, and Orlando's generally upbeat statements about DWAC [in a recent interview](#), the reality is that DWAC, its officers and directors, and its affiliates (such as EF Hutton) are in legal peril. Aside from their considerable personal legal exposure, the disregard for both the letter and the spirit of the federal securities laws is likely to doom the entire DWAC-TMTG merger before it closes.

According to long-standing, unambiguous [SEC regulations](#), a "blank check company" (in other words, a SPAC) is defined in relevant part as: "*a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person[.]*" Prior to completing their IPOs, blank check companies *must neither* (1) have selected any specific merger target, *nor* (2) directly or indirectly, have participated in any substantive discussions with any merger target.



Predictably, DWAC's [S-1 disclosures](#) consistently and unambiguously state that DWAC had not "selected any specific business combination target" and had "not, nor has anyone on our behalf, engaged in any substantive discussions, directly or indirectly, with any business combination target with respect to an initial business combination with us." Following its IPO, however, DWAC negotiated and finalized a definitive merger agreement with TMTG with blistering speed, naturally raising the question whether DWAC misled in its S-1 about the timing of its merger negotiations with TMTG. (See also: Appendix II – Timeline of Key Events).

## ***Key Events Leading up to the Merger Announcement***

For reasons that are well-known, but not directly relevant here, on or about January 8, 2021, Twitter permanently closed Trump's account, preventing him from using Twitter to communicate with others. Shortly thereafter, other mainstream social media platforms such as Facebook took similar steps.

Being permanently precluded from using mainstream social media platforms angered Trump deeply. According to Trump, since January 2021, "Big Tech" (Facebook, Twitter, and others) has unilaterally and unacceptably silenced conservative voices. With the encouragement of certain advisers, within days of leaving office, Trump decided to respond by launching his own "conservative media powerhouse," which was subsequently to be named TMTG.

In February 2021, TMTG was formally incorporated with Trump as Chairman. Moving expeditiously to fulfill Trump's dual aspirations of receiving a significant [infusion](#) of cash and launching TMTG, his staff arranged a meeting between TMTG and Orlando, who made no secret of his experience creating and shepherding several SPACs through the "SPAC process" at any given time. Crucially, however, Orlando was the primary moving force behind *both* BCAC and DWAC, as well as their respective ARC affiliate sponsors. This is a serious problem vis-à-vis rules governing contact with a potential target prior to DWAC's IPO because obviously, Orlando cannot implement a mental "Chinese wall" between two companies when he bears primary responsibility for both of them.

In March 2021, Orlando and Trump were discussing a merger between BCAC and TMTG, a deal that ARC firmly supported. For reasons likely owing to BCAC's relatively modest size (\$100m), however, over the course of the spring, DWAC, which had yet to finalize its IPO size became the more likely merger partner. In early April 2021, an apparently productive [video conference](#) meeting was held between Trump (and his staff and advisers), Orlando, Rodrigo Veloso (a colleague of Orlando's who never had any role at BCAC but became a director of DWAC), and ARC representatives (who sponsored and invested in both BCAC and DWAC).

In May 2021, Orlando was formally appointed Chairman and CEO of DWAC, and on May 25, 2021, DWAC filed its initial [S-1](#) registration statement indicating its intent to raise approximately \$100-\$115 million through the IPO. On the very first page of the filing, DWAC identified itself as a "blank check company" and stated that it had "not selected any specific business combination target and ... ha[d] not, *nor has anyone on our behalf, initiated any substantive discussions, directly or indirectly, with any business combination target*" [emphasis added]. DWAC reiterated this exact statement on page 3 of the filing. Three individuals – CEO Orlando, CFO Luis Orleans-Braganza, and Director Lee Jacobson – signed this as well as all of DWAC's subsequent S-1s; by doing so, they each personally assumed legal responsibility for the completeness and accuracy of the contents of the filings.

In July 2021, DWAC twice [amended](#) its [S-1](#). Notably, DWAC's [second S-1](#), filed on July 8, 2021, announced without explanation a new, more ambitious IPO goal of \$300-\$350 million, presumably to satisfy TMTG's needs. Predictably, each DWAC filing repeated the same statement that DWAC had "not selected any specific business combination target and ... ha[d] not, nor has anyone on our behalf, initiated any substantive discussions, directly or indirectly, with any business combination target."

On August 10, 2021, DWAC filed its [third amended S-1](#). In addition to the "no discussions with target companies" language quoted above, DWAC inserted for the first time an additional, very unusual statement:

We have not contacted any of the prospective target businesses that [BCAC] or [Orlando's third SPAC] had considered and rejected. We do not currently intend to contact any of such targets; however, we may do so in the future if we become aware that the valuations, operations, profits or prospects of such target business, or the benefits of any potential transaction with such target business, would be attractive. (p.7)

The inclusion of this added disclaimer is puzzling and a potential red herring. It seems subsumed within DWAC's earlier, broader statement that it had not selected *any* specific merger target and had not, directly or indirectly, engaged in *any* substantive discussions with *any* merger target. By saying, essentially, "We haven't been in contact with anyone at all, and we *definitely* haven't been in contact with TMTG," it seems as though DWAC doth protest too much, implying that perhaps it was growing concerned about its pre-IPO contact with TMTG.

During the summer of 2021, Orlando and his SPAC factory team were occupied with much more than DWAC's IPO filings. According to BCAC's affiliate's [S-4](#), from early June through late August 2021, BCAC (which Orlando controlled and oversaw in every meaningful way) purportedly conducted due diligence on TMTG and even began drafting a definitive merger agreement. Effective September 1, 2021, however, BCAC terminated negotiations with TMTG. The fact that BCAC's purported discussions with TMTG concluded exactly *one week* before DWAC had its IPO seems too convenient to be a coincidence. This fact, combined with our understanding that both BCAC and DWAC were entirely subject to Orlando's control, implies Orlando may have used BCAC and its alleged activities as a placeholder of sorts, to disguise the fact that DWAC was essentially engaged in prohibited merger negotiations prior to its IPO.

Post-IPO, DWAC's rush to get a fully executed merger agreement signed with TMTG is almost palpable. (And understandable, given [reports](#) that Trump was considering multi-million dollar offers to become the marquee name associated with several alternative right-leaning social media companies instead of trying to launch his own.) On September 27, 2021 – just 19 days after DWAC's IPO – Orlando and Trump sign an LOI reflecting plans to merge TMTG and DWAC. Less than a month later, on October 20, 2021, exactly six weeks after DWAC had its IPO, Orlando and Trump met in Florida and signed [the definitive DWAC-TMTG merger agreement](#). Again, it strains credulity to think that Orlando could accomplish all that in just six weeks, without the benefit of the months-long process that BCAC allegedly had just completed.

The only defense to allegations that DWAC misled in its S-1 that we have come across so far comes from TMTG's then-Chief Legal Officer who had said that the April 2021 video conference was "strictly discussions between Trump Media and [BCAC], another SPAC that Mr. Orlando ran. Any reference to the contrary is false and defamatory[.]"

We respectfully disagree. Any argument that Orlando's apparently ongoing merger negotiations with TMTG from February through September 2021 were only with BCAC and not with pre-IPO DWAC, and thus not illegal, ignores reality, impermissibly elevates form over substance, and assumes that investors and regulators are gullible fools. As alluded to above, during this period, Orlando and ARC exercised complete control over both BCAC and DWAC; both companies had the same underwriter, the same sponsor, the same Chairman and CEO, and overlapping board members. They even had [the same address](#) (which was just Orlando's desk at a [WeWork location](#))! In short, until either company manages to consummate a merger with a target company, both BCAC and DWAC are, and will be, simply alter egos for Orlando. The S-1s for both [BCAC](#) and [DWAC](#) confirm this by including the exact same disclosure regarding having two officers (Orlando and potted-plant CFOs) and no full-time employees. In other words, Orlando did everything for both BCAC and DWAC at all relevant times. Orlando was likely involved in all the due diligence described above, and it would have been impossible for him – or anyone in his situation – to put on blinders and ignore the fact that he was responsible for both BCAC and DWAC. We don't buy this false dichotomy, and we don't think the SEC will either.

### ***Suspension of S-1 Would Eliminate Possibility of Closing Merger***

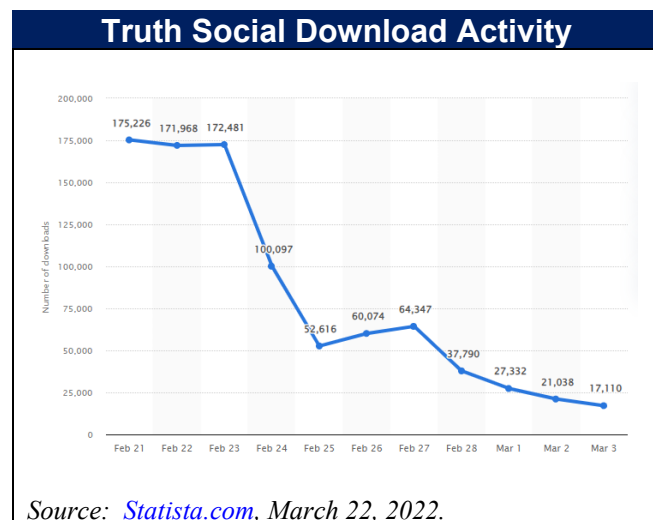
Making materially false or misleading disclosures in SEC filings violates the anti-fraud provisions of the federal securities laws; unsurprisingly, the SEC [routinely expects](#) companies to "correct [a] prior disclosure that the company determines was untrue (or omitted a material fact necessary to make the disclosure not misleading) at the time it was made[.]" Correcting, or amending, false statements in prior SEC filings does not exactly burnish a company's reputation; but, in most instances, doing so does not necessarily torpedo a company's prospects. In some circumstances, however, a disclosure in an SEC filing that was materially false at the time it was made *cannot* simply be corrected in an amended filing, because the truth fundamentally alters the nature of the filing (and, at times, the nature of the company itself).

We believe that such is the case with DWAC's S-1 registration statement. The SEC has emphasized, in a [decision](#) with which ARC is surely familiar, that the "essential purpose of [a registration statement] is to protect investors by promoting full disclosure of information thought necessary to informed investment decisions." Moreover, a registration statement that materially misrepresents the nature of the registrant's operations is particularly problematic, because, among other information, "the nature of its operations, and [its plan for the future](#) would seem to be the most important pieces of information available to an investor." Assuming (as we do) that DWAC's S-1s all contain materially false and misleading statements, and that, in reality, prior to its IPO, DWAC did have a specific merger target in mind and had even engaged in substantive discussions with that target, *DWAC does not qualify as a blank check company*. There are *ample* precedents of the SEC not hesitating to [obtain stop orders suspending registration statements](#) containing false or misleading statements that are arguably *less* significant than DWAC's, and we can think of no reason why it would hesitate to do so in this case. Surely even the most bullish investors must understand that the suspension of DWAC's S-1 registration statement likely eliminates the possibility of a DWAC-TMTG merger.

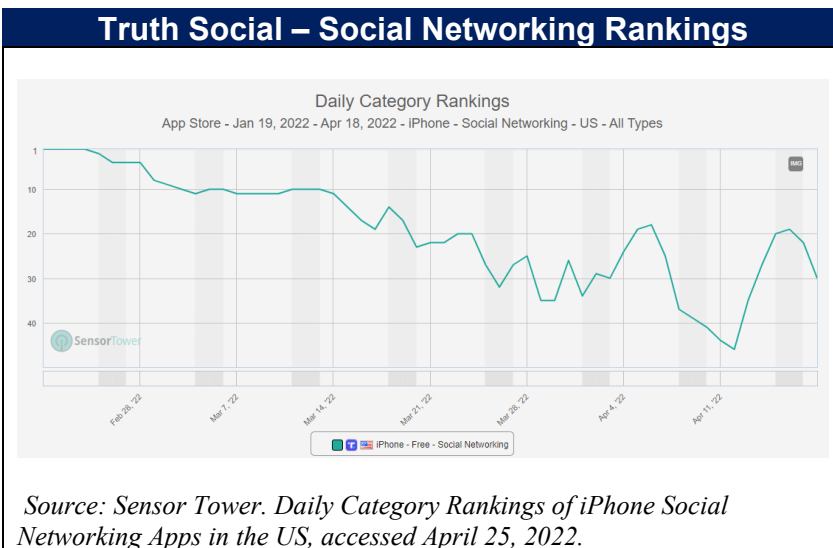
## Botched Truth Social Launch a Sign of Further Challenges Ahead

Truth Social's beta launch has been a [well-publicized](#) comedy of errors. A catalogue of technology mistakes have plagued the amateurish rollout, including: violations of its [core software license](#), [missed deadlines](#), [embarrassing security breaches](#), [lengthy system outages](#), [glitchy performance](#), and a stalled [waiting list](#). Media reviews of the app describe a user interface that is little more than a [shameless clone](#) of [Twitter's](#) newsfeed. Even the app's "broken T" logo has been aped (and faces potential [legal](#) challenge). Where Truth Social does differentiate itself from Twitter is in its lack of support for desktop or Android – Truth Social is only currently available on iPhones (if you don't mind waiting a few weeks).

Truth Social's technical issues have contributed to user frustration, a lack of quality engagement ("[digital tumbleweeds](#)" as described in one detailed article we recommend), and rapidly [fading interest](#) post-launch.



After the initial buzz surrounding the much-anticipated launch in mid-February, download activity has plummeted. According to Sensor Tower, as of April 18<sup>th</sup>, Truth Social is not among the top 200 most downloaded free apps across all categories in Apple's App store and ranks 30<sup>th</sup> among social networking apps.



Perhaps most puzzling for Truth Social fans is that Trump himself is not using the site. The former President has only posted once, urging users to “Get Ready!” for his arrival to the site weeks ago. It’s been crickets since. Why not promote the site, even with a warning to be patient given that it isn’t quite fully operational?

The hiccups witnessed with Truth Social’s launch have been extraordinary. Hacked even before launching? A waiting list of a million? A heavily promoted app is supposed to use a waiting list to build hype, not infuriate potential new users so much they walk away. However unfair it may be, the error-filled launch of Truth Social is confirmation of how it has an undeniable target on its back. Glitches, delays, downtime, and preventing security breaches are significant challenges, and as evidenced by the recent departure of senior tech leaders, so is attracting and retaining talent. These setbacks will continue to receive magnified, negative attention. When a business like a social media platform thrives on broadening network effects to grow its user base, negative feedback is a serious problem. Rather than the “big tent” it hopes to create, a platform may instead devolve (even more) to being an echo chamber of like-minded users rather than a forum for debate, nihilating the lifeblood of a social media app: user engagement.

It’s also worth remembering that while merger approval is still pending, none of the cash held in trust at DWAC nor the PIPE is available to TMTG. It’s not entirely clear how Truth Social operations are presently being funded. Continued delays in the regulatory process that stall the receipt of capital will hamper the development path, and Truth Social risks losing momentum to competitive conservative media platforms. The history of social media is littered with apps that enjoyed more capital, more innovation, and more technical expertise than Truth Social, and still ended up failing (anyone remember [Yik Yak](#) or [iTunes Ping](#)?).

## Projections Underwritten by Flimsy Assumptions

DWAC has forecast Truth Social users to grow to 81m by 2026 based *solely* on a 2021 [Morning Consult/Politico](#) poll of registered voters. Basing a critical, long-term input on a singular survey is deeply flawed for several obvious reasons. First, the survey was conducted before anything was known about the app (like, say, how Trump isn’t using it).



Second, a record [158m](#) votes were cast in the 2020 elections. The only way to arrive anywhere near 81m users by 2026 based on voter registrations would be to take the Politico survey's responses at face value and assume Truth Social captures the approximately 51% of all voters who claimed they could see themselves using the app occasionally or more. One would think the individuals at TMTG of all places would know that polls can be misleading. Evidence of how political surveys are a poor predictor of actual usage is ironically provided in the very same note summarizing the poll results.

Politico stated its recent survey showed Truth Social enjoyed more public backing than Trump's last social media venture, "From the Desk of Donald J. Trump," which their poll from a year ago indicated 50% of registered Republicans would engage with. 50% is an awfully high indication of interest, and yet what happened to "From the Desk of Donald J. Trump?" It [failed](#) miserably. Engagement was virtually non-existent. The website received just [4 million](#) visitors, fewer than the website of Petfinder, let alone half of registered Republicans, and the blog shuttered in less than a month. Political surveys are simply useless as underpinnings for determining accurate demand for an app that barely exists.

TMTG+ assumptions are equally baseless. The forecast conjures up a figure of 40m subscribers by 2026 for no stated reason other than it equals 20% of Netflix's *global* subscriber base and that seems like a nice round number. 20% may not sound *that* aggressive except, as of the end of last year, 66% of Netflix subscribers were not in the US or Canada. 40m subscribers implies adding more than 50% of Netflix's US subscribers in under 5 years – which quickly begins to sound more far-fetched. How does a late to the game TMTG+ justify explosive growth, likely reliant on a saturated US market, if it aims to provide "Big Tent" entertainment, documentaries, and sports programming, i.e., the same content every other streaming company possesses. TMTG has been noticeably silent as to how TMTG+ will procure this content. Netflix spent *\$17 billion dollars* on content in 2021. When Netflix achieved 40m streaming subscribers in 2013, it had already spent over \$5bn cumulatively on content – and this was when Netflix's entertainment mix included more cheap library content compared to the number of premium originals needed to attract and keep viewers' attentions now. Much more than a \$1bn PIPE will be needed to realize TMTG+ projections.

## PIPE Terms Will Leave Retail Investors Holding the Bag

Private investment in public equity (PIPE) financing is a common feature of SPAC deals. Typically, PIPEs provide target companies with additional committed capital, smoothing and expediting the path to profitability, while signaling to public investors that sophisticated institutional confidence in the business exists on terms usually (though not always) equal to SPAC investors.<sup>1</sup>

PIPE financing announcements usually accompany announcement of the merger itself. However, DWAC's mammoth \$1bn [PIPE financing](#) was announced on December 4, six weeks *after* it announced its agreement with TMTG and after shares rose over 600% in a frenzy of retail meme-stock enthusiasm. The PIPE's structure belies an effort to capitalize on retail interest in TMTG, while downplaying the financial, regulatory, and reputational risk associated with such a commitment. The terms of DWAC's PIPE [securities purchase agreement](#) allow

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<sup>1</sup> Bloomberg columnist, Matt Levine, has written extensively on the unusual nature of the DWAC PIPE in his Money Stuff column and we encourage shareholders to read his work.

institutional investors to profit with limited risk and freely exit their positions, not one or two months after merger close, as is typical, but as soon as the merger closes. Ordinarily, PIPE shares cannot be traded until resale registrations are filed with the SEC and declared effective (less than 45 days is normal).

The pricing of the PIPE is also very unusual. Per the [release](#):

The per-share conversion price of the fully committed convertible preferred stock PIPE transaction represents a 20% discount to DWAC's volume-weighted average closing price ("VWAP") for the five trading days prior to and including December 1, 2021, subject to downward adjustment. If the VWAP of the combined entity for the 10 trading days after the closing of the business combination ("Closing VWAP") is at or above \$56, no downward adjustment will occur. If the Closing VWAP is below \$56, then the conversion price shall be adjusted to the greater of a 40% discount to the Closing VWAP and the floor price of \$10.00.

The initial conversion price per share was struck at \$33.60. If, for example, the day after the merger closes, the closing VWAP is \$70 (i.e., above \$56), PIPE investors would receive shares at \$33.60 and be able to immediately flip it for a \$36.40 gain. If the closing VWAP is below \$56, say \$40, PIPE investors would receive the benefit of the downward adjustment and pocket an instant 40% discount with a \$24 conversion price. As if these terms are not generous enough, the purchase agreement expressly permits each investor to short the common stock.

The conversion price and resale rights are designed to allow institutions involved in the PIPE to buy stock at a steep discount and instantly flip it to retail investors for minimal risk. Rather than promote the identities of the investors involved in the PIPE, DWAC's press release celebrating the PIPE does not name a single participant. Only when PIPE shares are registered for sale immediately before closing the merger is DWAC obligated to disclose the PIPE investors' identities. If the deal closes, the identity of the PIPE investors will be known for less than a day until they have the right to run off with a windfall return. If the deal fails, their identities and the potential role they have played in enriching the former President may never be known.

PIPE investors are effectively acting as well-compensated intermediaries, a role that the SEC may find as drawing concerning parallels to that of an underwriter. According to a former SEC enforcement attorney who reviewed the details of the PIPE, "there is no way the SEC isn't going to demand a host of disclosures and explanations for why a \$1bn PIPE, that no one knows who is participating in, is structured in such a manner that smacks of taking advantage of retail investors. I would be shocked if the PIPE survives as is."

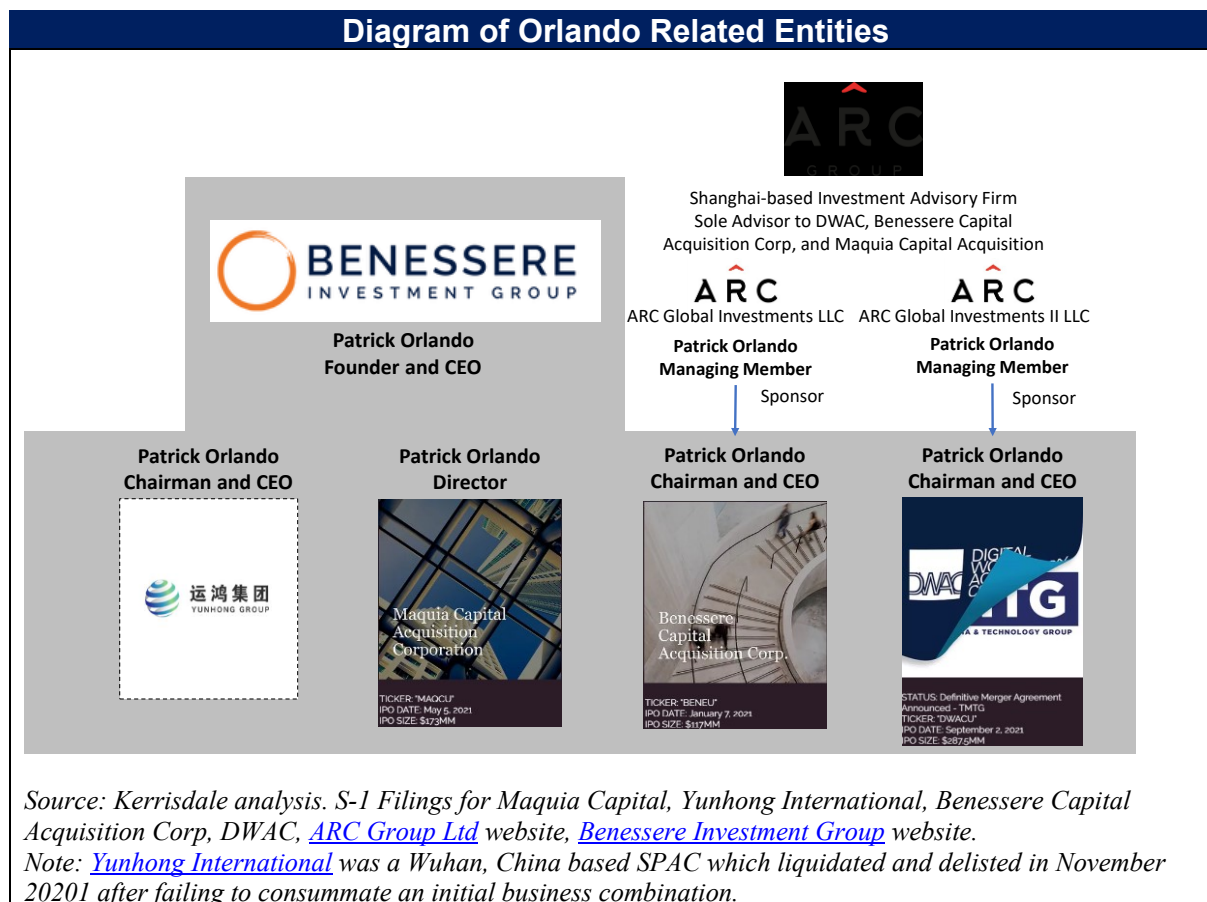
## Conclusion

The sordid situation of DWAC, TMTG, ARC Global, EF Hutton, PIPE investors, et al., with their inherent and inextricable conflicts of interest, underscores a key problem with the whole SPAC industry: Few involved in a SPAC's genesis have reason (other than ethics) to care about the long-term success of the post-merger company. Nearly everyone associated with a SPAC's mere creation profits handsomely as long as the SPAC IPOs and then successfully completes a merger with any other company, no matter how lousy or undesirable that target company might be.

Simply put, it is a structure ripe for abuse and the sheer volume of SPACs has now put the product squarely in regulators' crosshairs. The number of SPAC IPOs [ballooned](#) nearly 10x

between 2019 and 2021, accounting for more than 3/5<sup>th</sup> of all U.S. IPOs. In a [speech](#) given shortly after the SEC opened its investigation into DWAC, SEC Chair Gary Gensler outlined the agency's intent to crack down on the information asymmetries, conflicts of interest, and potential for fraud inherent in SPACs. In particular, Gensler called out needing to address the obligations of "gatekeepers" – directors, officers, SPAC sponsors, financial advisors, and accounts – and their attempts to use SPACs as a way to arbitrage liability regimes. Gensler might as well have been addressing DWAC. If Gensler wants to send a message to market participants that abuses will not be tolerated, his Division of Enforcement couldn't have dreamed of a better opportunity than stopping DWAC in its tracks.

## Appendix I: Orlando Related Entities



## Appendix II: Timeline of Key Events

Date	Key Event
January 6, 2021	Supporters of President Trump attack the Capital Building in Washington, D.C.
January 7, 2021	BCAC raises about \$100 million in an IPO orchestrated by Orlando and ARC.
January 8, 2021	Twitter permanently blocks account belonging to Trump for violations of Twitter's Terms of Service.
January 20, 2021	Trump leaves public office.
Late January 2021	Wes Moss and Andy Dean Litinsky (former contestants from "The Apprentice") meet with <a href="#">Trump</a> , urging him to launch his own "conservative media powerhouse." Trump, Moss, and Litinsky agree to create a "Trump Media" corporation, and then to find a SPAC to bring the company public.
February 8, 2021	TMTG is incorporated in the State of Delaware.
February 19, 2021	Orlando, Chairman and CEO of BCAC, signs an NDA with TMTG.
March 2021	<p>Hoping to broker a deal between BCAC and TMTG, ARC arranges for EF Hutton (which is listed as sole financial and capital markets advisor to both BCAC and DWAC) to <a href="#">pitch</a> TMTG (and several other potential targets) to BCAC board members, estimating that TMTG was worth \$1.5bn.</p> <p>A managing partner at ARC Group (both BCAC's and DWAC's sponsor) tells BCAC that TMTG is ARC's preferred target, but, according to the <a href="#">NY Times</a>, the BCAC-TMTG merger idea went nowhere.</p>
April 5-8, 2021	<p>TMTG and Orlando (allegedly on behalf of BCAC) engage in negotiations regarding valuation and other terms of a merger, but do not reach an agreement. On or about April 8, 2021, the supposed conversations between TMTG and BCAC cease.</p> <p>At the same time, however, according to <a href="#">the NY Times</a>, a pivotal video conference meeting takes place among a notable cast of characters including: Trump (and members of his staff), Orlando, Moss, Litinsky, Rodrigo Veloso (Orlando's colleague and a future DWAC Director), and representatives of ARC (a direct investor in both BCAC and DWAC).</p>
Between May 4 and 25, 2021	Orlando becomes DWAC's new Chairman and CEO.
May 25, 2021	DWAC files its <a href="#">initial S-1</a> identifying itself as a "blank check company" and proclaiming that it had "not selected any specific business combination target and ... ha[d] not, nor has anyone on our behalf, initiated any substantive discussions, directly or indirectly, with any business combination target." At this point, DWAC indicates plans to raise about \$100 million through its IPO.
June 4, 2021	BCAC/Orlando execute a new LOI with TMTG with a revised valuation.
July 8, 2021	DWAC/Orlando file an <a href="#">amended S-1</a> , increasing its IPO goal to \$300 to \$315 million.



Date	Key Event
<b>June 4 – August 25, 2021</b>	BCAC/Orlando conduct purported due diligence on TMTG while waiting for TMTG to execute certain key operational agreements and finalize its PCAOB audited financials, and begin drafting definitive agreements.
<b>Effective September 1, 2021</b>	BCAC/Orlando terminate its negotiations with TMTG, citing lack of key contracts, audited financials, and a preference for different target.
<b>September 8, 2021</b>	DWAC/Orlando raises \$287.5m in IPO.
<b>September 27, 2021</b>	Orlando and Trump <a href="#">sign</a> an LOI, openly contemplating a DWAC-TMTG merger.
<b>October 20, 2021</b>	Orlando (on behalf of both DWAC <u>and</u> its Sponsor ARC Global II) and Trump (on behalf of TMTG) execute a <a href="#">Definitive Merger Agreement</a> between DWAC and TMTG.
<b>December 6, 2021</b>	<p>TMTG and DWAC announce \$1bn PIPE investment.</p> <p>Trump hires Rep. Devin Nunes, R-CA as CEO of TMTG.</p> <p>DWAC discloses that in late October FINRA had launched an investigation into suspiciously timed trading in DWAC shares, and that in early November 2021, it had received a request from the SEC for, among other things, documents regarding DWAC Board meetings, trading policies, investors' identities, and documents and communications between DWAC and TMTG.</p>
<b>February 21, 2022</b>	TRUTH Social launches on the Apple App store. After an initial spike, persistent technical and other problems result in poor reviews and rapidly dwindling interest.

## Appendix III: Transaction Overview

DWAC Transaction Overview

Key Highlights

- Digital World Acquisition Corp. ("DWAC") intends to acquire Trump Media & Technology Group ("TMTG") at an initial purchase price of \$875M in shares of DWAC<sup>1</sup> with a potential earnout of up to 40M shares
- Earnout structure consists of 15M shares at \$15.00, 15M shares at \$20.00 and 10M shares at \$30.00
- DWAC intends to raise approximately \$1B in a PIPE at the closing of the transaction
- Cash in Trust assumes no redemptions by DWAC public stockholders
- Expected transaction close is Q1 2022

Pro Forma Ownership

	Shares (in Millions based on \$10/share)		Shares (in Millions assuming full earnout)	
DWAC Public Stockholders	28.8	12.8%	28.8	14.9%
DWAC Sponsor	8.3	3.7%	8.3	4.3%
TMTG Stockholders	87.5	38.9%	127.5	65.9%
Underwriter Shares	0.1	0.1%	0.1	0.1%
PIPE Investors	100.0	44.5%	13.7 <sup>1</sup>	7.1% <sup>1</sup>
Public Warrants	0.0	0.0%	14.4	7.4%
Sponsor Private Placement Warrants	0.0	0.0%	0.6	0.3%
<b>Total Shares</b>	<b>224.7</b>	<b>100.0%</b>	<b>193.4</b>	<b>100.0%</b>

	Dollars (in Millions based on \$10/share)	Dollars (in Millions assuming full earnout)
<b>Sources:</b>		
DWAC Cash In Trust	\$293.3	\$293.3
DWAC Sponsor	83.2	83.2
TMTG Equity Earnout Structure	0.0	2,910.4 <sup>1</sup>
TMTG Fixed Equity Purchase Price	875.0	875.0
PIPE Proceeds	1,000.0	1,000.0 <sup>1</sup>
<b>Total</b>	<b>\$2,251.5</b>	<b>\$5,161.9</b>

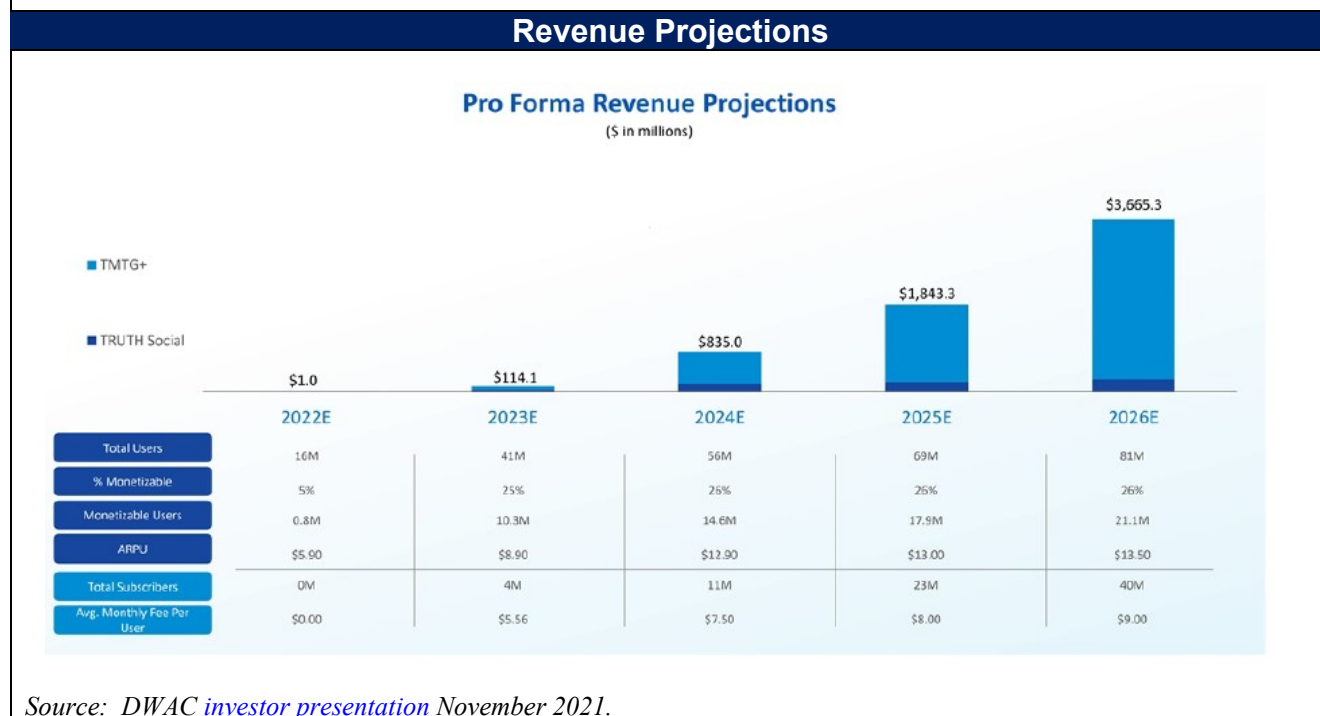
<b>Uses:</b>		
TMTG Rollover Equity	\$875.0	\$3,785.4 <sup>1</sup>
Cash to Balance Sheet <sup>3</sup>	1,254.4	1,254.4
DWAC Sponsor	83.2	83.2
Fees & Expenses	38.8	38.8
<b>Total</b>	<b>\$2,251.5</b>	<b>\$5,156.9</b>

<b>Valuation Summary</b>		
Common Equity	\$2,247.1	\$12,984.6 <sup>1</sup>
Warrants	0.0	553.4 <sup>1</sup>
<b>Total Equity Value</b>	<b>\$2,247.1</b>	<b>\$13,538.1</b>
Net Cash	1,254.4	1,254.4
<b>Enterprise Value</b>	<b>\$992.7</b>	<b>\$12,283.6</b>

(1) Assumes current DWAC price of Class A common stock of \$72.76 and current DWAC price of \$37.04 as of 10/28/21 market close and price level is met for 20 of 30 trading days

(2) With each share valued at the price at which DWAC redeems its public stockholders

(3) Excludes current TMTG cash on balance sheet



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