

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Administrative Proceedings Rulings  
Release No. 6484 / March 6, 2019

Administrative Proceeding  
File No. 3-16509

In the Matter of

**Edward M. Daspin, a/k/a  
“Edward (Ed) Michael”,  
Luigi Agostini, and  
Lawrence R. Lux**

**Order Denying  
Motion for Extension of  
Procedural Schedule and  
to Quash or Modify Subpoenas**

This proceeding began with an order instituting proceedings on April 23, 2015, and was assigned to me in September 2018 for a new hearing. I ordered a revised schedule on February 6, 2019. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 6441, 2019 SEC LEXIS 114, at \*4-5 (ALJ). The hearing is scheduled to begin on April 15, 2019.

Daspin, who appears pro se, made a motion dated February 20, 2019, that repeats his contentions that he and his wife are very ill and cannot afford legal counsel. Daspin makes a number of requests: additional time to file subpoenas to Commission employees and assistance from my office in doing so; that the procedural dates be extended two weeks; that he needs more time; that his wife is ill and cannot take the stress of being deposed; that depositions should occur at his home; and that he is very ill and will be irreparably harmed if forced to testify. In an opposition filed on March 1, 2019, the Division of Enforcement contends that Daspin gave no valid reasons for failing to observe the due date for requesting subpoenas and the request for extending the procedural schedule is moot if no extension is given for Daspin's subpoenas. Also, it argues that there is no persuasive support for claims that Daspin and his wife are too ill to participate in the proceeding.

**Ruling**

Daspin's motion includes no evidentiary support for any of his arguments. Daspin requests two broad categories of relief: an extended

procedural schedule and the modification of subpoenas that have been served on him and his wife. Similar to his earlier requests, which were considered and denied, these requests are denied for lack of support. 17 C.F.R. § 201.154(a) (motions must be supported by “the points and authorities relied upon.”).

Daspin’s request for additional time to conduct discovery is denied. Although pro se litigants are afforded some latitude, they still must comply with procedural rules—especially when those rules are not arcane or hidden. *Accord Yadav v. Brookhaven Nat’l Lab.*, 487 F. App’x 671, 672 (2d Cir. 2012); *Abdulhaseeb v. Calbone*, 600 F.3d 1301, 1310 (10th Cir. 2010). Here, Daspin has not justified his failure to comply with the procedural rules and my orders.

My February 6, 2019, order revising the deadline for submission of requests for deposition and document subpoenas expressly referred to Rules of Practice 232 and 233, 17 C.F.R. §§ 201.232, .233. *Edward M. Daspin*, 2019 SEC LEXIS 114, at \*5. Those rules explain how parties may request subpoenas for depositions and document productions and list the required contents of the deposition notice. *See* 17 C.F.R. §§ 201.232(a), .233(c). Daspin’s requests do not comply with these requirements. The February 6 order clearly stated the deadline for requests for depositions. My February 14, 2019, order merely reminded the parties of that due date. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 6459, 2019 SEC LEXIS 183, at \*2.<sup>1</sup> For this reason, it is not dispositive when Daspin received a copy of my February 14 order. In addition, as the record in this case reveals, Daspin frequently uses email and my office emailed a copy of the order to him on February 14.

Daspin’s request to quash or modify subpoenas is also denied. The two one-sentence letters from Daspin’s personal physician concerning Daspin’s and Mrs. Daspin’s condition do not meet the unreasonable, oppressive, excessive in scope, or unduly burdensome standard required to quash or modify the Division’s subpoenas for depositions. *See* 17 C.F.R. § 201.232(b), (e)(2).

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<sup>1</sup> My February 6 order actually gave Daspin a second chance to submit subpoenas after the original deadline to request subpoenas, December 17, 2018, passed without Daspin submitting any requests. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 6342, 2018 SEC LEXIS 3260, at \*3 (ALJ Nov. 19, 2018).

For all the reasons stated, Daspin's February 20 motion is DENIED. The hearing on April 15, 2019, will occur as scheduled.

I ORDER that requests for witness subpoenas under Rule 232 must be submitted to my office by March 22, 2019. *See* 17 C.F.R. § 201.232. Copies of blank witness subpoena forms can be found at <https://www.sec.gov/alj/subpoena-to-appear.pdf>. A witness can be called to testify at the hearing whether or not the witness has been deposed.

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Brenda P. Murray  
Chief Administrative Law Judge