

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 3222/October 14, 2015

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

On September 22, 2015, Herrick, Feinstein LLP submitted a notice stating that, effective September 28, it would be withdrawing as counsel for Respondents Edward M. Daspin and Luigi Agostini.<sup>1</sup> The firm also asked that I stay all existing deadlines.<sup>2</sup> I denied the stay request<sup>3</sup> On October 9, 2015, Agostini asked that I rescind Herrick’s notice of withdrawal or that I direct Herrick to return part of what Agostini paid it. Because I lack the authority to take either action, Agostini’s motion is DENIED.

As Agostini notes, it is ordinarily the case that a litigant’s counsel cannot withdraw without leave to do so.<sup>4</sup> Many agencies follow this standard in administrative proceedings.<sup>5</sup> The Commission, however, does not. In Commission proceedings, a respondent’s counsel may withdraw simply by providing notice of withdrawal.<sup>6</sup> A notice of withdrawal that complies with the Commission’s requirements is self-executing; counsel need not show good cause in order to

<sup>1</sup> See *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3183, 2015 SEC LEXIS 4001, at \*1 (Sept. 30, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See *Whiting v. Lacara*, 187 F.3d 317, 320-21 (2d Cir. 1999); see also *In re Tustaniwsky*, 758 F.3d 179, 182 (2d Cir. 2014); *Alexian Bros. Med. Ctr. v. Sebelius*, 63 F. Supp. 3d 105, 107 (D.D.C. 2014) (relying on local Rules 83.6(c) and (d)).

<sup>5</sup> See 17 C.F.R. § 9.8(c); 28 C.F.R. § 68.33(g); 46 C.F.R. § 502.23(e).

<sup>6</sup> *BDO China Dahua CPA Co.*, Exchange Act Release No. 72134, 2014 SEC LEXIS 1611, at \*4-5 (May 9, 2014); see 17 C.F.R. § 201.102(d)(4).

withdraw.<sup>7</sup> Because Herrick's notice complied with the Commission's rules, its notice was sufficient upon its filing to automatically withdraw the firm from its representation of Agostini in this proceeding.

As to Agostini's request that I order Herrick to return a portion of what he paid the firm for its representation of him, Agostini cites no authority—and I am aware of none—that gives me the power to do what he asks. Whatever the validity of Agostini's dispute with his former counsel, he has raised that dispute in the wrong forum. If Agostini wishes to pursue his dispute, he must raise it before a tribunal with the authority to address it.

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James E. Grimes  
Administrative Law Judge

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<sup>7</sup> *BDO China Dahua CPA Co.*, 2014 SEC LEXIS 1611, at \*4-5.