

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 3564/February 1, 2016

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 FOLLOWING  
PREHEARING CONFERENCE

A sealed hearing is currently scheduled for February 11, 2016, to address the reason for Respondent Edward M. Daspin’s absence from the January 4, 2016, hearing in this matter. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3532, 2016 SEC LEXIS 258 (ALJ Jan. 22, 2016). On January 27, 2016, the Division of Enforcement requested a conference call to discuss its concerns about holding the February 11 hearing in light of the Second Circuit’s stay of this proceeding as to Respondent Luigi Agostini. *See* Stay Order, *Agostini v. SEC*, No. 15-4114 (2d Cir. Jan. 12, 2016), ECF No. 49.

Following the Division’s request, I scheduled a telephonic prehearing conference for 2:30 p.m. EST on January 29, 2016. After Daspin failed to join the conference, I rescheduled it for 3:30 p.m., at which time Daspin joined the conference.

During the conference, the Division explained its concern that a potential determination that Daspin intentionally failed to appear on January 4 could bear on Daspin’s credibility, and therefore could arguably relate to Agostini’s defense because Agostini has identified Daspin as a critical witness. Although it disagrees with this line of argument, the Division suggests a cautious approach and requests a stay of the proceeding.

For his part, Daspin also wishes to stay the proceeding. When I attempted to discuss the matter with him during the conference, however, he said that—for reasons that are not entirely clear—the discussion had ventured beyond whether to stay the matter and then hung up.

Having considered the parties’ positions, the Division’s request is DENIED. By its terms, the Second Circuit’s order stays the “proceedings against” Agostini. *See* Stay Order, *Agostini v. SEC*, No. 15-4114 (2d Cir. Jan. 12, 2016), ECF No. 49 (“On application of the Appellant, the Securities and Exchange Commission proceedings against Appellant are

STAYED pending further order of this Court.”). The order does not apply to Daspin, who is not a party to Agostini’s action in the Second Circuit.<sup>1</sup>

The hearing on February 11, 2016, which is being held solely to address why Daspin failed to appear on January 4, will go forward as scheduled. Daspin is informed that this will be his opportunity to explain his absence on January 4. Any evidence developed at the hearing and any findings or conclusions that I might reach as a result of the hearing will apply only to Daspin.

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James E. Grimes  
Administrative Law Judge

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<sup>1</sup> Daspin has indicated that he plans to file a request with the Second Circuit asking it to direct that he is covered by the stay issued in Agostini’s appeal. The purported request contains an allegation that I told the district court in *Duka v. SEC*, No. 1:15-cv-357 (S.D.N.Y.), that I do not understand the Constitution or the constitutional issues presented in that case. This allegation is false; I am not a participant in the *Duka* litigation and did not make the statement Daspin attributes to me. Daspin’s false allegation does not provide a basis for me to stay the February 11 hearing.