

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

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 3683/March 8, 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 FINDING  
RESPONDENT EDWARD M.  
DASPIN IN DEFAULT

After Respondent Edward M. Daspin failed to appear at a hearing that was scheduled to begin on January 4, 2016, I ordered that a separate hearing be held on February 11, 2016, to address the reason for Daspin’s absence. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 3481, 2016 SEC LEXIS 72 (ALJ Jan. 8, 2016). Daspin did not appear at the hearing on February 11, and took steps to prevent another witness—his wife—from appearing. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 3606, 2016 SEC LEXIS 562, at \*1 (ALJ Feb. 16, 2016). During the hearing, the Division of Enforcement presented un rebutted evidence that Daspin voluntarily absented himself from the hearing on January 4.

As a result of these events, I ordered Daspin to show cause why he should not be found in default. *See Edward M. Daspin*, 2016 SEC LEXIS 562, at \*3. Daspin responded but did not sufficiently address the Division’s evidence that he invented the reason for his absence on January 4, and, in any event, was voluntarily absent from both the January 4 and February 11 hearings. Given the Division’s un rebutted evidence and Daspin’s own admissions, Daspin is in DEFAULT for failing to appear at the hearings on January 4 and February 11, 2016.<sup>1</sup> *See* OIP at 15; 17 C.F.R. § 201.155(a)(1).

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<sup>1</sup> Daspin may move to set aside the default in this case. Rule of Practice 155(b) provides that:

A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding. In order to prevent injustice and on such conditions as may be appropriate, the hearing officer, at any time prior to the filing of

## Background

After the Commission initiated this proceeding, Daspin submitted evidence that he suffers from a serious medical condition. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 2810, 2015 SEC LEXIS 2387, at \*1 (ALJ June 15, 2015). Specifically, Daspin's treating physician, Dr. Alan Puzino, M.D., an internist, stated that Daspin "[REDACTED]" while being deposed by the Division of Enforcement and that Daspin's participation in this proceeding would "without question, pose an imminent and unconditional threat to his life." Declaration (May 11, 2015) at 1-4, 10. Based on this evidence, the administrative law judge previously assigned to this proceeding indefinitely postponed the hearing as to Daspin in June 2015. *Edward M. Daspin*, 2015 SEC LEXIS 2387, at \*2. In late July 2015, Dr. Puzino "opined that it would take months of consultations to determine an appropriate treatment plan for Daspin and a year before he could say whether Daspin could handle the stress associated with participating in a hearing." *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3263, 2015 SEC LEXIS 4435, at \*2 (ALJ Oct. 28, 2015).

This matter was reassigned to me at the end of July, and in August I lifted the postponement, having determined that I lacked the authority to indefinitely continue this matter. See *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3041, 2015 SEC LEXIS 3348, at \*3-8 (ALJ Aug. 14, 2015). In late September, Daspin's counsel withdrew. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3183, 2015 SEC LEXIS 4001, at \*3 (ALJ Sept. 30, 2015).

Between September 29 and October 6, 2015, Daspin, or others on his behalf, sent my office dozens of e-mails variously asserting that because he is ill and not sufficiently computer literate, he cannot participate in this proceeding. See generally *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3202, 2015 SEC LEXIS 4103 (ALJ Oct. 6, 2015); see also Div. Ex. 6 at 1-4, 9-11, 15, 18, 20, 22.<sup>2</sup> Daspin submitted additional medical evidence, including evidence from Dr. Puzino. He also submitted a continuing series of requests to postpone the hearing or dismiss the proceeding. See *Edward M. Daspin*, 2015 SEC LEXIS 4435, at \*2, 8-10, 12-13; Div. Ex. 6 at 1-3, 9, 20-22.

Among other things, the Division responded to Daspin's requests by submitting a letter from Dr. Stanley J. Schneller, M.D., who has been a professor of cardiology at Columbia University since 1985. Schneller Letter at 1. Dr. Schneller reviewed Daspin's medical history and noted that Daspin repeatedly avoided or delayed a recommended [REDACTED] test, which ultimately revealed normal [REDACTED]. See *id.* at 4-8.

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the initial decision, or the Commission, at any time, may for good cause shown set aside a default.

17 C.F.R. § 201.155(b).

<sup>2</sup> I refer to the Division's exhibits submitted at the hearing on February 11, 2016, as "Div. Ex." The page numbers referenced with respect to these exhibits refer to PDF pages.

Dr. Schneller explained that Daspin's condition is treatable, his risk of harm is low, and he can live a "normal life." Schneller Letter at 11. Dr. Schneller also explained that Dr. Puzino had supplied "misleading statements [and] unfounded opinions and describe[d] a peculiar approach to [Daspin's] complaints that is outside standard medical care." *Id.* at 10; *see id.* at 11-12; *see also Edward M. Daspin*, 2015 SEC LEXIS 4435, at \*5. Dr. Schneller added that nothing supported Dr. Puzino's statement that Daspin [REDACTED] [REDACTED] while being deposed by the Division. Schneller Letter at 2, 10. He also offered that there was no medical validity to Dr. Puzino's opinion that Daspin's condition would "preclude [his] participation in [these] proceedings." *Id.* at 11, 12 (describing the opinion as "medically insupportable"); *see id.* at 9.

Daspin responded with a rebuttal letter purportedly written by Dr. Puzino. Dr. Puzino initially backtracked from his assertion that Daspin [REDACTED] [REDACTED] during his deposition before changing course and again suggesting that he did [REDACTED] [REDACTED]. Rebuttal at 1, 5. He then said that Dr. Schneller's opinion was baseless, because among all doctors, Dr. Puzino—who is not a cardiologist—had "special insight," making him the sole physician qualified to diagnose and treat Daspin. *Id.* at 5-6.<sup>3</sup> In later denying Daspin's motions to dismiss or continue, I found Dr. Schneller's opinion convincing and Dr. Puzino's opinion not credible. *Edward M. Daspin*, 2015 SEC LEXIS 4435, at \*10 & n.2.

Throughout November, Daspin continued to send e-mails making substantive arguments about the case and asserting that his medical condition would or should prevent his participation in the hearing then scheduled for January 4, 2016. Div. Ex. 6 at 24-25, 27, 36, 38-39, 45, 55, 59, 61, 65. He also began referring to the possibility that he [REDACTED] [REDACTED]. *Id.* at 24, 29, 35, 38-39, 55, 61, 67, 75. That month, he moved to "toll" the hearing date for six months. *Id.* at 37-45, 55, 61-62. I construed this motion as one to reconsider my earlier orders and denied it. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 3328, 2015 SEC LEXIS 4758, at \*1 (ALJ Nov. 18, 2015).

In December, Daspin filed untimely motions to stay and for summary disposition. I denied these motions because they were baseless. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3409, 2015 SEC LEXIS 5125 (ALJ Dec. 17, 2015). Throughout this time, Daspin continued to send e-mails claiming to be ill while simultaneously arguing the merits of the allegations and decrying the Division's efforts in pursuing its case against him. Div. Ex. 6 at 95-97, 99-106, 111, 118.

During a prehearing conference in December, the parties and I discussed the Division's efforts to permit Daspin to appear at the January 4 hearing by video teleconference. *See Prehearing Tr.* at 46-54. Because the parties' efforts were unsuccessful, I directed that the

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<sup>3</sup> The rebuttal also contained legal arguments, which included references to settlement and a Second Circuit decision, as well as assertions that "this matter should not even be in this court," "the Sec [sic] has bigger fry to go after," and Daspin "will be able to be sued in federal court." Rebuttal at 2, 5. The presentation of the medical claims in the rebuttal, along with its legal assertions and stylistic eccentricities, strongly suggest that the rebuttal was authored, at least in part, by Daspin himself.

hearing would commence as scheduled. *Id.* at 55; see *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3429, 2015 SEC LEXIS 5227 (ALJ Dec. 22, 2015).

Daspin did not appear at the hearing on Monday, January 4, 2016. Tr. 3. Counsel for the Division stated during the hearing that he had been informed that Daspin had been hospitalized the previous Saturday. Tr. 4. I then granted the Division's request to delay the hearing to provide it time to investigate the reason for Daspin's absence. Tr. 5-7.

Within days, the Division submitted evidence that Daspin had been admitted to a hospital as a result of a purported [REDACTED]. See Letter from Kevin P. McGrath (Jan. 7, 2016). According to a report from [REDACTED], Daspin's wife—who is not a party to this proceeding—discovered him [REDACTED]. According to the report, Daspin complained that “if he is going to be tried” he wished to be tried “in Federal court where he can receive a fair trial and equitable representation,” and that he “[REDACTED]” and “would do anything to protect his wife from the current legal situation.”

I held a telephonic conference on January 8, 2016. *Edward M. Daspin*, 2016 SEC LEXIS 72, at \*1. During the conference, I scheduled a hearing for February 11, 2016, solely to address the reason for Daspin's absence from the hearing on January 4. *Id.* at \*2. Following the conference, I issued an order setting the hearing date and ordering Daspin to “make himself available” by February 3, 2016, “for an in-person medical evaluation by an expert provided by the Division.” *Id.*

Daspin was released from the hospital by January 13, 2016. See Div. Ex. 6 at 127. Between then and February 16, 2016, he sent my office forty e-mails, many of which were abusive and unprofessional. *Edward M. Daspin*, 2016 SEC LEXIS 562, at \*1 n.1.<sup>4</sup> In those e-mails, Daspin resisted attending the hearing on February 11. See Div. Ex. 6 at 129, 131-32, 136.

I held a telephonic conference on January 29, 2016, during which Daspin said that he was “not committed to participate in this proceeding because” the Second Circuit had stayed the proceeding as to Respondent Luigi Agostini, and he was likewise entitled to a stay.<sup>5</sup> Tr. 95,

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<sup>4</sup> Daspin has repeatedly and consistently violated my orders instructing him to stop sending my office argumentative e-mails. *Edward M. Daspin*, 2016 SEC LEXIS 562, at \*1 n.1 (citing orders).

<sup>5</sup> Daspin filed an action in the District of New Jersey, seeking to enjoin this proceeding. See *Daspin v. SEC*, No. 15-cv-8299 (D.N.J. Dec. 30, 2015), ECF No. 15. The court dismissed that action for lack of jurisdiction. *Id.* Meanwhile, Agostini filed an action in the Southern District of New York, which was also dismissed for lack of jurisdiction. *Agostini v. SEC*, No. 15-cv-9595 (S.D.N.Y. Dec. 18, 2015), ECF No. 18. After Agostini appealed, the Second Circuit ordered that “the Securities and Exchange Commission proceedings against [Agostini] are STAYED pending further order of [the] Court.” *Agostini v. SEC*, No. 15-4114 (Jan. 12, 2016), ECF No. 49.

101-02. I then attempted to quote the Second Circuit's order for the record, but Daspin interrupted to say that he disagreed with my "interpretation." Tr. 100. I explained that I was not interpreting the order but was instead quoting its literal language. Tr. 100. Daspin apologized and said that because the Second Circuit had stayed the case as to Agostini, he was likewise entitled to a stay. Tr. 100-01. I then explained my concerns with delaying the investigation into Daspin's absence, including "prejudice [to Daspin's] ability to show why [he was] not present." Tr. 101. Daspin again interrupted me, saying that we were straying beyond what Division counsel had told him would be discussed, claimed to be experiencing chest pain, and hung up the phone. Tr. 102.

Meanwhile, the Division attempted to schedule Daspin's interview with its expert at either the Division's office or [REDACTED], but Daspin did not respond to the Division's e-mails. See Letter from Barry O'Connell, Ex. A (Feb. 3, 2016). Consistent with my January 8, 2016 order, the Division then scheduled Daspin to be interviewed by its expert on February 3, 2016. See *id.* Although he had filed no objections to the order directing the interview, Daspin did not appear for the interview. Instead, he sent an e-mail on the morning of February 3 saying that he was ill. *Id.*, Ex. B.

On February 9, 2016, Daspin submitted a motion on behalf of his wife to quash a subpoena I issued requiring her to appear and testify at the February 11 hearing. On February 10, I denied the motion. *Edward M. Daspin*, Admin. Proc. Rulings Release No. 3594, 2016 SEC LEXIS 496. That night, Daspin sent an e-mail informing my office and the Division that he had taken affirmative steps to prevent his wife from testifying. Div. Ex. 12 at 1; see *Edward M. Daspin*, 2016 SEC LEXIS 562, at \*1. Neither Daspin nor his wife appeared at the hearing on February 11, 2016. Tr. 16-17.

During the hearing on February 11, the Division called Dr. Harold J. Bursztajn, M.D., to testify. The Division also offered, and I admitted, Dr. Bursztajn's expert report into evidence along with a number of other exhibits. Tr. 14, 28-29; see Div. Ex. 1. Dr. Bursztajn has practiced clinical and forensic neuropsychiatry since 1982. Tr. 18. He explained that it is "quite common" for a professional in his field to opine about whether a person has made a "[REDACTED]" for "manipulation" or as a genuine [REDACTED]. Tr. 21.

Dr. Bursztajn reviewed various items, including Daspin's medical records, his e-mails, and certain legal records. Tr. 22-28; Div. Exs. 2-7. He explained that the determination of whether [REDACTED] is genuine is evaluated based on [REDACTED]. Div. Ex. 1A; see Tr. 32. Daspin [REDACTED]. Tr. 35-40. In particular, Dr. Bursztajn stated that there was a "very low likelihood" that Daspin [REDACTED]. Tr. 36-38. According to Dr. Bursztajn, if the [REDACTED], "there's a higher likelihood that [REDACTED] was manipulative." Tr. 35.

Dr. Bursztajn concluded that Daspin's purported [REDACTED] was consistent with a "staged [REDACTED]" noting that while [REDACTED], Daspin said that one of his goals was to [REDACTED]. Tr. 39-40, 64; see Div. Ex. 8 at 56; see also Ex. 2 at 647-48 (noting that he asked a clinician in November to provide him with a letter saying that he "can't do any of this until you cure me"). He then explained that Daspin's behavior was designed to manipulate this proceeding in order to obtain a narcissistic benefit. Tr. 40-41; Div. Ex. 1 at 2. Dr. Bursztajn opined that Daspin engages in a "pattern of grandiosity" that involves humiliating others and portraying himself as a hero. Tr. 41-42.

Relevant to the determination that Daspin likely staged [REDACTED], Dr. Bursztajn noted several facts. First, although Daspin has [REDACTED], there is no evidence that a clinician—or Daspin's wife—directed that [REDACTED], whereas such a precaution would be typical for [REDACTED]. Tr. 49; Div. Ex. 1 at 14-15. Second, he was allowed to discharge himself and continue treatment on an out-patient basis, something that would not have occurred if [REDACTED]. Tr. 51, 53. Third, Daspin was prescribed medication that is inconsistent with what would be prescribed to someone who genuinely [REDACTED]. Tr. 52-53. Fourth, Daspin's post-hospitalization treatment plan "was quite loose" because it "did not involve any very close monitoring or supervision," indicating that "[REDACTED] [REDACTED]." Tr. 54.

Dr. Bursztajn was also struck by the notes of Daspin's treating clinicians. See Tr. 54-57, 60-62. He explained that a treating clinician must take a patient's "suffering impulse at face value" and try "[t]o create a therapeutic alliance." Tr. 54. Dr. Bursztajn was thus surprised to see that two of Daspin's treating clinicians raised the possibility that Daspin "was manipulating them . . . for the purpose of creating a record to derail legal proceedings."<sup>6</sup> Tr. 55; see Ex. 2 at 55, 479, 648.

Based on his review of the available evidence, Dr. Bursztajn opined that Daspin's "[REDACTED]" was "consistent with a life-long pattern of manipulation and conning people in order to be able to avoid the foreseeable consequences of his actions." Tr. 65. He concluded that there is no medical reason Daspin cannot participate in this proceeding. Tr. 65.

The Division called no other witnesses at the hearing on February 11. Because he failed to appear, Daspin presented no evidence.

Because he failed to appear at the hearings on January 4 and February 11, I ordered Daspin to show cause why this proceeding should not be determined against him. *Edward M. Daspin*, 2016 SEC LEXIS 562, at \*3. Daspin filed an answer to the order to show cause on February 26, 2016. In his answer, he alternates between attempting to refute the Division's case

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<sup>6</sup> Dr. Bursztajn also remarked that his review of the available medical evidence led him to believe that Dr. Puzino was not objective and was "basically taking [Daspin's] reports and . . . desires as . . . his . . . overriding mandate." Tr. 58-59. He noted that in December, Daspin visited a cardiologist who agreed with Dr. Schneller and not Dr. Puzino. Tr. 58-59.

on the merits, attacking this proceeding, and claiming that his [REDACTED] was genuine. As to the February 11 hearing, Daspin asserts that he could not appear because [REDACTED] and because the Second Circuit stayed the Commission from proceeding against Agostini. Answer at 8-9, 14. He also makes reference to medical evidence, *id.* at 2-4, 6, 8-14, and his wife's [REDACTED], *id.* at 11.

### Discussion

Under the Commission's Rules of Practice, if a party is notified about a hearing but fails to appear, the party may be found in default and an administrative law judge may determine the proceedings against the party based on the record and the allegations in the OIP. 17 C.F.R. § 201.155(a)(1). In light of Rule 155, the predicate question here is whether Daspin was voluntarily absent from either hearing. In a criminal case, a defendant who intentionally fails to appear acts voluntarily and waives his right to be present.<sup>7</sup> See *United States v. Yannai*, 791 F.3d 226, 239 (2d Cir. 2015), *pet. for cert filed*, No. 15-8278 (U.S. Feb. 19, 2016); *United States v. St. James*, 415 F.3d 800, 804-05 (8th Cir. 2005). "[O]rdinarily," a district court, when addressing an absence "at a critical stage" of a criminal proceeding, "must conduct an inquiry on the record to determine whether the defendant has a sound excuse for his absence." *Yannai*, 791 F.3d at 240; see *United States v. Achbani*, 507 F.3d 598, 601-02 (7th Cir. 2007); *St. James*, 415 F.3d at 803-04.

In this case, the Division presented Dr. Bursztajn's testimony and report. Dr. Bursztajn was convincing and credible and Daspin presented no evidence to rebut Dr. Bursztajn's testimony. I find that the Division has shown that Daspin was voluntarily absent from the hearing on January 4, 2016. Specifically, I find that he staged a [REDACTED] in order to avoid the hearing and manipulate this proceeding.<sup>8</sup>

As Dr. Bursztajn explained with reference to the [REDACTED], every indicator suggests that Daspin's purported [REDACTED] was not genuine. See Tr. 32-40; Div. Ex. 1A. Critically, even Daspin's treating clinicians expressed doubts about Daspin's

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<sup>7</sup> This is not a criminal matter. If, however, a given procedure is sufficient to protect the rights of a criminal accused, the procedure is necessarily sufficient to protect the rights of a respondent in administrative proceedings. See *United States v. Lopez*, 445 F.3d 90, 99 (2d Cir. 2006) (noting that administrative procedures "do[] not carry all of the protections of a criminal proceeding").

<sup>8</sup> Daspin was the subject of a lawful subpoena to testify. It was therefore his burden to show that his absence from the hearing on January 4, 2016, was involuntary. See *Meacham v. Knolls Atomic Power Lab.*, 554 U.S. 84, 91 (2008) (noting the principle that a party seeking to benefit from an exception bears the burden to show entitlement to it). Because he failed to appear and present evidence on February 11, 2016, he necessarily failed to carry his burden. Even if the burden were on the Division, however, the result would be the same. It presented convincing evidence which went un rebutted.

motivation. As Dr. Bursztajn explained, the fact that the clinicians expressed these doubts in writing is telling.

That Daspin's purported [REDACTED] was not genuine is further supported by the fact that Daspin previously presented tenuous medical evidence that his [REDACTED] condition prevented him from being able to participate. Dr. Schneller refuted this evidence. Together with Daspin's purported [REDACTED], the evidence of Daspin's allegedly serious [REDACTED] condition reflects a pattern of attempts to manipulate this proceeding in order to avoid a hearing.

Additionally, Daspin failed to appear at the hearing on February 11, despite being informed that the hearing would be his opportunity to explain why he was absent on January 4. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 3564, 2016 SEC LEXIS 332, \*3 (ALJ Feb. 1, 2016). Daspin also failed to make himself available for an examination by Dr. Bursztajn and took affirmative steps to prevent his wife from appearing at the February 11 hearing even though she was subpoenaed. These latter actions reflect Daspin's consciousness of liability.<sup>9</sup>

In answering the order to show cause, Daspin claims that his [REDACTED] was genuine. But Dr. Bursztajn's testimony refutes that assertion. Moreover, even if Daspin had genuinely [REDACTED], he does not deny that [REDACTED]. And if he [REDACTED], he was voluntarily absent from the hearing. [REDACTED]

Daspin also claims his wife is [REDACTED] and thus apparently able to determine [REDACTED]. Answer at 11. But Daspin prevented her from testifying on February 11. At this point, her competence is not relevant. And Daspin's reference to his medical evidence misses the point. He had an opportunity to present his side of the story on February 11 but voluntarily chose not to attend the hearing.

The record establishes that Daspin has twice tried to use alleged medical issues to avoid a hearing. While this sort of medical evidence was credited once, nothing requires me to credit it now, especially after the evidence has twice been refuted. The Due Process Clause entitles Daspin to an unbiased adjudicator, not a gullible one. *Cf. In re J.P. Linahan, Inc.*, 138 F.2d 650, 654 (2d Cir. 1943) ("Impartiality is not gullibility. Disinterestedness does not mean child-like innocence. If the judge did not form judgments of the actors in those court-house dramas called trials, he could never render decisions.").

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<sup>9</sup> Daspin cast his action as protecting his wife from danger. *See* Div. Ex. 12 at 1 ("I am a very sick man but am willing to die trying to protect her [REDACTED]"). Dr. Bursztajn's description of Daspin's grandiosity, however, strongly suggests that Daspin was not motivated by any danger faced by his wife, but rather the danger to him if she were to testify. *See* Tr. 42-43, 45-46.



And as to the February 11 hearing, Daspin asserts that he could not attend because he had [REDACTED] and the Second Circuit stayed the Commission from proceeding against Agostini. Answer at 8-9, 14. Given that Daspin was notified of the hearing well in advance and was required to attend, the former assertion is not a reason for missing the hearing. And the latter reason is meritless because, as I have explained to Daspin, the Second Circuit's order did not apply to him. *See Edward M. Daspin*, 2016 SEC LEXIS 332, at \*2. Indeed, that court has rejected Daspin's own stay request. *See SEC v. Daspin*, No. 13-4622 (2d Cir. Feb. 23, 2016), ECF No. 83. Daspin has thus failed to show cause why he did not attend two hearings.

In light of these findings, I determine that, despite being informed of the hearing on January 4, 2016, Daspin voluntarily failed to appear for that hearing. I reach the same conclusion regarding the hearing on February 11, 2016. Daspin is therefore in default.<sup>10</sup> Under Rule 155(a)(1), I deem as true the allegations in the OIP, insofar as those allegations relate to Daspin.<sup>11</sup> 17 C.F.R. § 201.155(a)(1).

The Division had asked that I stay this matter as to Daspin pending a decision from the Second Circuit in Agostini's appeal. Since then, however, the Second Circuit has rejected Daspin's attempts to ride Agostini's coattails. *See SEC v. Daspin*, No. 13-4622, ECF No. 83. Because this matter as it relates to Daspin could efficiently be resolved through a motion for sanctions, the Division should advise my office by letter filed within five business days whether it continues to believe that this proceeding should be stayed as to Daspin. If the Division is still of that belief, it should advise how it foresees the presentation of witnesses and evidence occurring at a hearing in light of Daspin's default.

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James E. Grimes  
Administrative Law Judge

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<sup>10</sup> Because Daspin has failed to carry his burden to show cause, the Division's opposition to Daspin's response to the show cause order is moot.

<sup>11</sup> The findings of this order do not apply as to Agostini, nor are any allegations in the OIP deemed true as to him.