

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

Administrative Proceedings Rulings
Release No. 6342 / November 19, 2018

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**

The Securities and Exchange Commission instituted this proceeding on April 23, 2015. Edward Michael Daspin, appearing pro se, is the only remaining Respondent.¹ The order instituting proceedings (OIP) alleges that Daspin willfully violated Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, Sections 10(b), 15(a) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5. OIP at 14.

At a prehearing conference on November 14, 2018, Daspin stated his belief that the new hearing for respondents before a new administrative law judge that the Commission ordered post-*Lucia* is illegal for many reasons. *See Pending Admin. Proc.*, Securities Act Release No. 10536, 2018 SEC LEXIS 2058, *2-4 (ALJ Aug. 22, 2018). Daspin further stated that he needed an attorney and time to file motions to the Commission and a court of appeals before he can participate in this administrative proceeding. I explained that a respondent in an administrative proceeding does not have a right to a government appointed attorney. *See Boruski v. SEC*, 340 F.2d 991, 992 (2d

¹ Lawrence R. Lux and Luigi Agostini settled with the Commission. *Edward M. Daspin*, Securities Act of 1933 Release No. 9963, 2015 SEC LEXIS 4287 (Oct. 16, 2015); *Edward M. Daspin*, Securities Act Release No. 10243, 2016 SEC LEXIS 4086 (Nov. 1, 2016).

Cir. 1964); *V.F. Minton Sec., Inc.*, Exchange Act Release No. 32074, 1993 SEC LEXIS 642, at *18 (Mar. 31, 1993), *pet. denied*, 18 F.3d 937 (5th Cir. 1994).

The parties did not indicate that they had reached an agreement on whether any of the materials already on file in the administrative docket should be considered as evidence. I therefore will consider only newly admitted materials. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 6284, 2018 SEC LEXIS 3054, at *3 (ALJ Nov. 2, 2018).

Based on the prehearing discussion, I ORDER the following procedural schedule:

- December 7, 2018: Deadline for Daspin, if he chooses, to file a new answer or to amend the answer that he filed on June 4, 2015. Daspin may use his 2015 answer without filing anything new.
- December 14, 2018: Parties exchange the names of proposed witnesses, including experts.²
- December 17, 2018: Deadline for requests for depositions and documents under Rules of Practice 232 and 233, 17 C.F.R. §§ 201.232, .233.
- January 18, 2019: Parties exchange expert reports, if any.
- January 31, 2019: Deadline for completion of discovery.
- February 1, 2019: Parties exchange rebuttal expert reports, if any.
- February 8, 2019: Parties exchange final witness and exhibit lists and copies of exhibits.
- February 15, 2019: Deadline for prehearing briefs, stipulations, requests for official notice, and any motions.
- February 22, 2019: If one would be helpful, a telephonic prehearing conference will be held at 10:00 a.m. EST.
- February 25, 2019: Hearing commences at 9:00 a.m. EST in New York, New York, at a location to be determined.

Any requests for subpoenas should be sent to my office for signature before they are returned to the requesting party for service. I will resolve

² Information should be updated as soon as changes are known.

motions, stipulations, and requests for official notice during the pre-hearing phase or at the start of the hearing. Exhibits will be offered and admitted into evidence during the hearing when the sponsoring witness testifies.

The Commission vacated all orders issued before August 22, 2018, including the protective orders entered by the prior administrative law judges. Insofar as those vacated protective orders have been used to seal any filings or orders since August 22, I VACATE the protective status of those filings and orders. Future requests for protective status will be decided individually. *See* 17 C.F.R. § 201.322 (governing the entry of protective orders).

Daspin sent an email to my office shortly after the prehearing conference suggesting that he had reached an agreement in principle with the Division. If the parties agree in principle to a settlement on all major terms, then they may jointly move that I stay the proceeding, and I will cancel this procedural schedule. *See* 17 C.F.R. § 201.161(c)(2).

Brenda P. Murray
Chief Administrative Law Judge