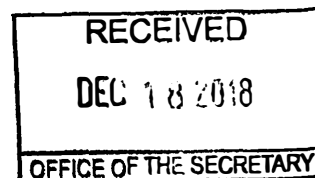


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



In the Matter of

EDWARD M. DASPIN, A/K/A
"EDWARD (ED) MICHAEL,"

Respondent.

**DIVISION OF ENFORCEMENT'S MOTION TO DISMISS OR STRIKE RESPONDENT
DASPIN'S DECEMBER 11, 2018 FILINGS**

The Division of Enforcement ("Division") respectfully moves to dismiss or strike Respondent Edward Daspin's December 11, 2018 filings ("Daspin's December 11 filings") in their entirety on the grounds that they are in violation of multiple provisions of the Commission's Rules of Practice. Daspin's December 11 filings, addressed to the Commission, should be stricken because: (1) they are premature in that the motions have not been first presented to and decided by the administrative law judge ("ALJ") to whom this matter has been reassigned; (2) interlocutory appeals of ALJs' rulings are disfavored and must first be certified by the ALJ, which has not occurred here; and (3) the filings grossly exceed the word limits for motions before the Commission.

I. Summary of Daspin's December 11 Filings

Daspin's December 11 filings consist of three documents: (1) a two-page cover letter, dated December 11, 2018, summarizing the motions purportedly presented in the attached documents; (2) a 37-page, single-spaced document entitled "Supplemental declaration and brief

(sic)”; and (3) a copy of a six-page single-spaced document entitled “Reconsideration Motion declaration” dated December 6, 2018, previously submitted to Chief ALJ Murray.

The cover letters states: “There is a host of motions for the commissioners to digest and a recap is in order.” The letter then sets forth the following purported motions: (1) a “TRO motion for all other submissions until the motions covered here ... [are] answered”; (2) “a stay of judge Murray for her conflicts of interest as well as on any other adjl assignment for the same conflicts (sic)”; (3) a “Motion To Enforce the Settlement” Daspin incorrectly claims was made between him and the Division during the initial pre-trial conference held before Chief ALJ Murray; (4) a motion for payment by the Commission of \$1 million to replace the legal fees that Daspin claims his insurance carrier expended for attorneys’ fees representing Daspin earlier in these proceedings; (5) a “motion for a change of venue and jurisdiction to federal court if the other motions are not approved ”; (6) a motion to dismiss the case if the “vacate motion” is denied; (7) “last any and all proceeding given the litigation fund to hire a lawyer is asked for a stay,” which the Division understands to be a motion to stay this case until Daspin is paid \$1 million by the Commission so that he can retain counsel to represent him; (8) “2motions to eliminate any inhouse adjudications as it violates the equal rights amendment in two areas (sic)...” on the grounds, Daspin incorrectly claims, that SEC administrative proceedings do not “provide defendants the automatic right to a circuit court hearing” and they do not “give a defendant the right to be represented by a lawyer which the civil rules of procedure used in federal court do...”. The cover letter also makes an unclear reference to “additional motions for relief covered in my prior motions...”

II. Daspin's Motions to the Commission Are Premature Because They Have Not First Been Submitted To and/or Decided by the ALJ

In its Order dated August 22, 2018, the Commission remanded all proceedings currently pending before it, including this proceeding, to the Office of Administrative Law Judges for reassignment to a new ALJ, and directed the ALJs to conduct further proceedings in accordance with the further provisions of that Order and the Supreme Court's decision in *Lucia v. SEC.*, 138 S.Ct. 2044 (2018), *Order*, Exchange Act Release No. 83907 (Aug. 22, 2018). Under Commission Rule of Practice 111, an ALJ's powers include: "Regulating the course of a proceeding, and the conduct of the parties and their counsel" (Rule 111(d)); and "Subject to any limitations set forth elsewhere in these Rules of Practice, considering and ruling upon all procedural and other motions..." (Rule 111(h)).

"Petitions by parties for interlocutory review are disfavored, and the Commission ordinarily will grant a petition to review a hearing officer ruling prior to its consideration of an initial decision only in extraordinary circumstances." Rule 400(a). Further, the Rule requires a party to first seek certification from the ALJ for a petition for review (Rule 400(c)) and provides, for purposes relevant here, that ALJs "shall not certify a ruling unless ... the hearing officer is of the opinion that:

- (i) The ruling involves a controlling question of law as to which there is a substantial ground for difference of opinion; and
- (ii) An immediate review of the order may materially advance the completion of the proceeding.¹

Daspin's motions to the Commission are procedurally defective for multiple reasons. First, most of the instant motions are currently pending before Chief ALJ Murray and have not yet been decided; namely, Daspin's motion for Chief ALJ Murray and all ALJs to recuse

¹ While Rule 400(a) does suggest that the Commission may consider the petition of a party who has been denied certification, that does not excuse the party from the requirement of first seeking certification from the ALJ.

themselves based on alleged bias; his motion for payment by the Commission of \$1 million to fund his legal defense of this proceeding; his motion to stay this proceeding until he receives that payment; his motion to transfer this case to federal court; and his motion to dismiss the case because the SEC's administrative proceedings allegedly violate various constitutional provisions. *See* Daspin's December 6, 2018 Filing. The Division submitted its "Opposition to Respondent Daspin's December 6, 2018 Filing" on December 12, 2018 and Daspin submitted a "Declaration and response" on December 13, 2018. Accordingly, it is premature at best for Daspin to submit these motions to the Commission before they have even been decided by the ALJ.

Second, Daspin's remaining motions, *i.e.*, his motion for a TRO to stay all proceedings until his motions are decided and his motion to enforce an alleged, but non-existent, settlement between him and the Division have not even been presented to Chief ALJ Murray for initial consideration and thus are also premature.²

Thus, Daspin's motions before the Commission should be summarily denied in their entirety.

III. Daspin's Motions Should be Stricken For Failure to Comply with Rule 450

Rule 450(c) provides, in relevant part, that, except with leave of the Commission, opening briefs shall not exceed 14,000 words and that motions to file briefs in excess of these limitations are disfavored. Daspin's 37-page, single-spaced brief entitled "Supplemental declaration and brief" consists of approximately 23,450 words, well in excess of the permissible word limits. On this ground alone, Daspin's brief should be summarily stricken.³

² Further, while the Commission need not reach this question, Daspin's motions are in large part frivolous on their face and none of them present controlling questions of law as to which there is a substantial ground for difference of opinion. Thus, they are highly unlikely to meet the requirements of Rule 400(c)(2), even if and when they are ripe for a petition for review.

³ Daspin also makes numerous unfounded accusations of misconduct against a wide range of Commission and Division staff, and directs personal insults and threats against the Division staff

Conclusion

For the foregoing reasons, the Division respectfully requests that Daspin's December 11, 2018 filings be summarily denied and/or stricken.

Dated: December 17, 2018
New York, New York

Respectfully submitted,

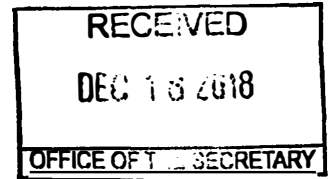


Kevin P. McGrath
Senior Trial Counsel
Nathaniel I. Kolodny
Barry O'Connell
Senior Counsel
Securities and Exchange Commission
New York Regional Office
200 Vesey Street – Suite 400
New York, NY 10281-1022
Ph: 212.336.0533
Fax: 703-813-9544
mcgrathk@sec.gov

trying this proceeding. Because Daspin's filings should be stricken in their entirety, and are not otherwise worthy of response, the Division will not dignify these unwarranted personal attacks with a response; but it requests that its silence not be deemed an admission that any of Daspin's attacks have any merit.



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
200 VESEY STREET
NEW YORK, NEW YORK 10281



December 17, 2018

Via UPS Overnight and Facsimile (202-772-9324 & 703-813-9793)

Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: In the Matter of Edward M. Daspin,
A.P. File No. 3-16509

Dear Mr. Fields:

Enclosed please find the original and three copies of the Division of Enforcement's Motion to Dismiss or Strike Respondent Daspin's December 11, 2018 Filings, which is submitted in connection with the above-referenced matter.

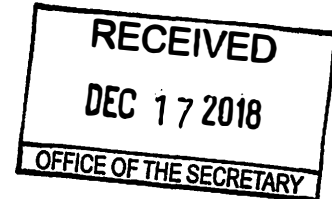
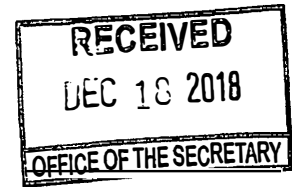
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nathaniel I. Kolodny".

Nathaniel I. Kolodny

cc: Edward Daspin (via email)
Chief Administrative Law Judge Murray (via email)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F St. NE
Washington, D.C. 20549



FAX TRANSMITTAL

PLEASE DELIVER THE FOLLOWING PAGES TO:

Name: Brent J. Fields

Organization:

Fax Number: 1 (202) 772-9324

Total Number of Pages, Including Cover Sheet: 09

Date: Monday, December 17, 2018 4:32:42 PM

From: Nathaniel Kolodny

Telephone Number:

Fax Number: 301.847.4745

If you do not receive all pages, please telephone the above number for assistance.

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Please see the attached.

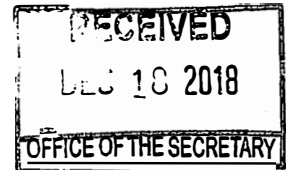
Respectfully submitted,

Nathaniel Kolodny

Nathaniel I. Kolodny | Senior Counsel
U.S. Securities and Exchange Commission
212-338-5104 | KolodnyN@sec.gov



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
200 VESEY STREET
NEW YORK, NEW YORK 10281



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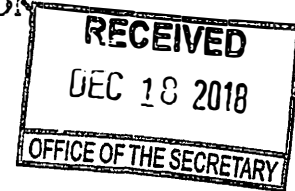
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Nathaniel I. Kolodny

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ADMINISTRATIVE PROCEEDING
File No. 3-16509

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Before the
SECURITIES AND EXCHANGE COMMISSION



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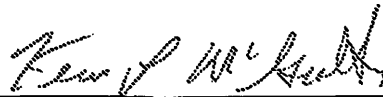
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For the foregoing reasons, the Division respectfully requests that Daspin's December 11, 2018 filings be summarily denied and/or stricken.

Dated: December 17, 2018
New York, New York

Respectfully submitted,



Kevin P. McGrath
Senior Trial Counsel
Nathaniel I. Kolodny
Barry O'Connell
Senior Counsel
Securities and Exchange Commission
New York Regional Office
200 Vesey Street – Suite 400
New York, NY 10281-1022
Ph: 212.336.0533
Fax: 703-813-9544
mcgrathk@sec.gov

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16509

In the Matter of

EDWARD M. DASPIN,

Respondent.

CERTIFICATE OF SERVICE

I, Nathaniel Kolodny, hereby certify that on December 17, 2018, I caused the original and three copies of the Division of Enforcement's Motion to Dismiss or Strike Respondent Daspin's December 11, 2018 Filings to be served upon the Office of the Secretary by UPS overnight delivery and served a copy via facsimile at the below address:

Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549
Fax: (202) 772-9324 & (703) 813-9793

I also caused a copy of the same document to be served on *pro se* Respondent Edward Daspin by email at emdaspin2@optonline.net.

Dated: December 17, 2018
New York, New York



Nathaniel Kolodny
Securities and Exchange Commission
New York Regional Office
200 Vesey Street – Suite 400
New York, NY 10281-1022
(212) 336-5104
kolodnyn@sec.gov

*** RX REPORT ***

RECEPTION OK

TX/RX NO	9175
RECIPIENT ADDRESS	3018474300
DESTINATION ID	
ST. TIME	12/17 16:33
TIME USE	08'38
PGS.	9
RESULT	OK

Rodriguez, Elvia

From: Thomas, Charvelle
Sent: Wednesday, November 14, 2018 9:51 AM
To: Rodriguez, Elvia
Subject: FW: Daspin, et al. 3-16509
Attachments: Dear MS Scheids111318.docx

Follow Up Flag: Review/Act
Flag Status: Flagged

Good Morning Elvia,

Please add this as a record.

Thank you,

Charvelle Thomas
Office: 202.551.6079

From: Shields, Kathy Moore
Sent: Tuesday, November 13, 2018 6:20 PM
To: Murray, Brenda P. <MurrayB@SEC.GOV>; Woodworth, Charles <woodworthc@SEC.GOV>
Cc: Thomas, Charvelle <thomasch@SEC.GOV>
Subject: FW: Daspin, et al. 3-16509

Appears to not have copied ALJ email box on this one.

Saved in j:drive (both the email and attached letter).

I have not sent any of this week's emails to OS. He requests this be sent to Mr. Fields. I think Elvia Rodriguez in OS enters Daspin docs in APTS.

As you know, sometimes he files with or copies OS, sometimes he doesn't.

Kathy

From: edwardDaspin [mailto:██████████@optonline.net]
Sent: Tuesday, November 13, 2018 1:41 PM
To: Shields, Kathy Moore
Cc: O'Connell, Barry; Edward Daspin; Kolodny, Nathaniel; Lawrence Lux; Luigi Agostini; McGrath, Kevin; Perlman, Benjamin
Subject: Re: Daspin, et al. 3-16509

Dear Kathy,[enclosedis adeclarationandbreif attach thismornings emailas its refered to anpleseive toMsJudgeMurrayand mr feilds for the comissioners hard copyinam

Thanks

Ineed the confersncenumber for am call eventhoughthe emntireproceedinginhouseisunconstitutioalaseplaiendhearin

MieDaspin

Pro see