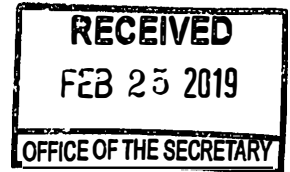


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



In the Matter of

EDWARD M. DASPIN,
a/k/a "EDWARD (ED) MICHAEL,"

Respondent.

**DIVISION OF ENFORCEMENT'S RESPONSE TO RESPONDENT
EDWARD DASPIN'S FEBRUARY 13, 2019 AND FEBRUARY 15, 2019
FILINGS**

The Division of Enforcement respectfully submits this memorandum of law in opposition to *pro se* Respondent Edward Daspin's February 13, 2019 and February 15, 2019 filings (collectively referred to as the "February 2019 filings"). While both filings are addressed to the Commission, they also contain requests directed to the Administrative Law Judge assigned to this case, Chief ALJ Murray. This submission addresses only those parts of the February 2019 filings directed to the Commission.

Daspin's February 2019 filings seek essentially the same relief and repeat essentially the same arguments Daspin has made in two prior filings to the Commission on or about August 28, 2018 and October 30, 2018.¹ In summary, Daspin seeks an order from the Commission: (1) dismissing the Order Instituting Proceedings ("OIP") because, Daspin claims, the Division's witnesses are untruthful and its other evidence unconvincing; (2) alternatively, transferring the

¹ Daspin also submitted various filings on or about September 13, 14 and 17, 2018 making essentially the same arguments contained in his August 28 and October 30 filings; these arguments should be rejected for the same reasons set forth below.

case to federal court in the District of New Jersey because, Daspin contends, Chief ALJ Murray is allegedly biased against him, Chief ALJ Murray and all the other ALJs suffer from an inherent conflict of interest because they answer to the Commission (which instituted the OIP), the Commission's administrative proceedings lack due process, and a federal proceeding will allow him more time to defend himself and accommodate his alleged medical needs; (3) alternatively, issuing a new OIP taking into account alleged exculpatory information; (4) absent dismissal of the case, payment by the Commission of \$1 million in "restitution" to Daspin to replace legal fees allegedly paid to Daspin's former attorneys under an insurance indemnification agreement, so that he can obtain counsel going forward; and (5) payment by the Commission of at least \$2,800,000 to Daspin for the time he has allegedly spent defending himself in this action to date (calculated at a rate of \$350.00 per hour).²

The Division filed summary responses to Daspin's August 28 and October 30, 2018 filings, primarily noting that Daspin's filings were procedurally defective because: (1) to the extent they sought a summary disposition, Daspin had failed to obtain leave of the ALJ as required under Commission Rule of Practice 250 to file such a motion; (2) to the extent that Daspin seeks interlocutory review as to any of these issues, they were not first raised and decided by the ALJ; and (3) Daspin failed to obtain certification for interlocutory review from the ALJ as required by Commission Rule of Practice 400. *See* Division's filings dated September 5, 2018 and November 6, 2018.

Since Daspin's filings, Chief ALJ Murray issued an order denying Daspin's motions to: (1) transfer this case to federal district court in New Jersey; (2) recuse herself because she

² Daspin's filings also seek additional relief that is frivolous on its face, including firing various Division attorneys, enforcement of a verbal settlement agreement Daspin incorrectly claims the Division agreed to; and rescission of settlement agreements and final orders entered into by his two co-Respondents.

allegedly had a conflict of interest and was biased against Daspin; (3) stay the procedural order because Daspin was allegedly too ill, his wife was ill and he needs to care for her; and he needs an attorney and allegedly has no money to hire one; and (4) dismiss the OIP because the administrative proceeding is allegedly unconstitutional and violates the Equal Protection Clause because Daspin allegedly will have no right to appeal. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 6423 (Dec. 26, 2018).³

Daspin has failed to obtain or even request certification from Chief ALJ Murray for interlocutory review of these rulings or any other issue Daspin has raised in his current filings before the Commission. For this, and for all the other reasons set forth in more detail in the Division's September 5, 2018 and November 6, 2018 submissions in response to Daspin's August 28 and October 30, 2018 filings, Daspin's motions should be denied in their entirety.⁴

CONCLUSION

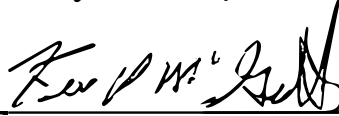
For all the foregoing reasons, Daspin's February 2019 motions, his August 28 and October 30, 2018 motions, and his September 13, 14 and 17, 2018 motions for relief should be denied in their entirety.

³ Chief Judge Murray also issued a new procedural order scheduling the hearing to commence on April 15, 2019. *See Edward M. Daspin*, Admin. Proc. Rulings Release No. 6441 (Feb. 6, 2019).

⁴ Alternatively, should the Commission grant interlocutory review of any of Daspin's requests for relief, the Division respectfully requests that the Commission set a briefing schedule so that the Division may provide a more detailed, substantive response to any issue as to which interlocutory review is granted.

Dated: February 22, 2019
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 (McGrath)
Fax: 703-813-9544 (McGrath)
mcgrathk@sec.gov