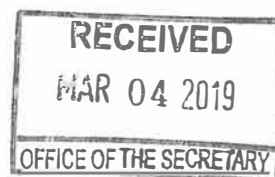


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

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

Respondent.



**DIVISION OF ENFORCEMENT'S RESPONSE TO RESPONDENT  
EDWARD DASPIN'S FILING DATED FEBRUARY 20, 2019**

The Division of Enforcement respectfully submits this response to *pro se* Respondent Edward Daspin's filing dated February 20, 2019. The Division received the filing by email on February 27, 2019. Daspin devotes a substantial portion of the filing to repeating arguments regarding his claimed innocence contained in prior filings. The Division will address these arguments at the appropriate time - at the hearing scheduled for April 15, 2019. Daspin also appears to request the following relief: (1) an extension of time to submit subpoena requests; (2) a two week extension of all currently scheduled deadlines; (3) a request that his proposed depositions be scheduled two weeks after he receives subpoenaed documents; (4) that he be permitted to appear for his deposition by telephone; (5) that Mrs. Daspin be excused from her deposition; and (6) that the Order Instituting Proceedings ("OIP") be dismissed due to Daspin's alleged health issues. The Division respectfully submits that Daspin's requests should be denied in their entirety.

A. Daspin's Request for Additional Time to Request Subpoenas Should Be Denied Because He Has Had More Than Sufficient Time To Do So and Because the Discovery He Seeks is Irrelevant, Unreasonable and Privileged

Daspin's request for additional time to submit his proposed subpoenas should be denied.

Daspin provides no excuse for his failure to submit his subpoenas by the February 15, 2019 deadline. Daspin claims that he did not receive the mailed copy of the Court's February 14, 2019 Order reminding him of the due date, and explaining the proper procedure for requesting subpoenas, until February 19, 2019, four days (and two business days) after the due date.

However, Daspin was emailed a copy of the Court's Order on February 14, 2019, one day before the due date. In any event, it is irrelevant when Daspin received the Court's reminder of the due date, given that Daspin was on notice of the due date when the Court's scheduling order was emailed to him on February 6, 2019. Moreover, Daspin provides no legitimate excuse why he did not promptly comply with the Court's instructions and submit his proposed subpoenas at any time between February 19, 2019 and the present.

Finally, it is apparent from Daspin's prior filings that the persons he seeks to depose, and many of the documents he seeks, are irrelevant to the claims set forth in the OIP. His requests are also unreasonable and seek privileged material. For example, Daspin seeks to depose numerous Administrative Law Judges and Division staff attorneys and seeks a wide range of documents relating to the Commission's, the ALJs' and the Division's internal, deliberative processes, and documents protected by the attorney-client privilege and the attorney work product doctrine. *See* Division's February 22, 2019 Response to Respondent Daspin's February 15, 2019 Filing Regarding "Documents From The Division" at 3-4, for a more detailed discussion of the concerns with Daspin's proposed subpoenas. Accordingly, Daspin will not be prejudiced if his motion for additional time to request irrelevant and unreasonable subpoenas, seeking, in large part, privileged documents and information, is denied.

**B. Daspin's Request for an Extension of the Procedural Schedule Should be Denied**

Daspin's request to extend the current procedural schedule by two weeks, and his request to extend the date his requested depositions take place to two weeks after he receives his requested documents, should be denied as moot if the Court denies Daspin's request for additional time to request subpoenas. Alternatively, if the Court grants Daspin additional time to request subpoenas, this will almost certainly necessitate an extension of the current March 15, 2019 discovery completion deadline (and possibly the hearing date), both to accommodate the likely motion practice under Commission Rules of Practice 232(b) and/or (c) regarding the standards for issuance of a subpoena and/or motions to quash or modify the subpoenas, as well as to permit the subpoenaed individuals time to comply with any authorized document requests and prepare for and appear at any authorized depositions. Accordingly, if the Court does grant Daspin additional time to request subpoenas, the Division respectfully requests that, to expedite matters, the Court require Daspin to make a preliminary showing under Rule 232(b) why he is entitled to issuance of the proposed subpoenas, which seek facially irrelevant and/or privileged documents and testimony, and provide the Division an opportunity to respond before issuance of the subpoenas.

**C. Daspin's Requests For Medical Accommodations Should be Denied**

Daspin requests that he be allowed to appear for his deposition telephonically, that Mrs. Daspin be excused from her deposition entirely, and that the OIP be dismissed, based on Daspin's and his wife's alleged medical issues. As this Court has previously noted, it is prepared to make reasonable accommodations for any properly supported medical needs. However, Daspin's general assertions about his and his wife's alleged health, unsupported by any detailed medical evidence, aside from two conclusory notes from the Daspins' personal physician, fail to

provide a sufficient basis to excuse Mrs. Daspin from her deposition or excuse Mr. Daspin from appearing in person for his deposition, far less dismissal of the OIP. *See, e.g., Edward M. Daspin*, Admin. Proc. Rulings Release No. 6459, 2018 SEC LEXIS 183 at \*1-2, (ALJ Feb. 14, 2019)(“... I DENY Daspin’s motion for a postponement [of the hearing] without prejudice to his ability to move for extensions or postponements in the future if he can show a *specific* need. *See* 17 C.F.R. § 201.161(a)-(b).”). (*emphasis in original*)<sup>1</sup>

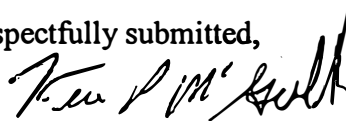
Daspin’s motion fails to set forth any new, documented medical evidence to demonstrate a specific need for accommodation. Instead, it contains only the same general assertions about his and his wife’s health that he has raised in the past and that the Court has previously rejected as insufficient.

#### CONCLUSION

For all the foregoing reasons, Daspin’s February 20, 2019 motion should be denied in its entirety.

Dated: March 1, 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)  
mcgrathk@sec.gov

---

<sup>1</sup> The Court also noted that it had already taken Daspin’s general assertions about his medical situation into account in setting the new schedule. *Id.*