

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

07-22204

CASE NO.

CIV - GOLD

MAGISTRATE JUDGE
TURNOFF

SECURITIES AND EXCHANGE COMMISSION,)

Plaintiff,)

v.)

CHARLES O. MORGAN, JR., as Personal)

Representative of THE ESTATE OF)

FREDERICK J. KUNEN,)

Defendant.)

ORDER FREEZING ASSETS AND OTHER EMERGENCY RELIEF

This cause comes before the Court upon a Motion by Plaintiff Securities and Exchange Commission for the following orders with respect to Defendant Charles O. Morgan, Jr., as Personal Representative of The Estate of Frederick J. Kunen:

- 1) a Temporary Order Freezing the Kunen Estate's Assets;
- 2) an Order Prohibiting Destruction or Alteration of Documents;
- 3) an Order Requiring a Sworn Accounting; and
- 4) an Order Expediting Discovery.

The Court has considered the Commission's Complaint, its memorandum of law supporting the current motion, and the exhibits filed in support of the motion. The Court finds the Commission has made a sufficient and proper showing in support of the relief granted herein by presenting a *prima facie* case of securities law violations and misappropriation of investor funds by Kunen. Accordingly, the Court finds good

cause to believe that, unless it imposes a temporary asset freeze, Defendant may well dissipate, conceal or transfer from the jurisdiction of this Court assets that could be subject to an Order of Disgorgement. The Court therefore orders as follows:

I.

SHOW CAUSE HEARING

IT IS ORDERED that Defendant show cause, if any, before the Honorable Alan S. Gold of this Court, at 5:00 o'clock p.m., on the 4 day of September 2007, in Courtroom ten of the United States Courthouse, 301 North Miami Avenue, Miami, Florida, or as soon thereafter as the matter can be heard, why the Court should not grant an Order Freezing Assets as the Commission has requested.



II.

TEMPORARY ORDER FREEZING ASSETS

IT IS FURTHER ORDERED that, pending determination of the Commission's request for an Order Freezing Assets:

A. Charles O. Morgan, Jr., as Personal Representative of the Kunen Estate, his directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, except any Receiver that may be appointed by this Court, who receive notice of this order by personal service, mail, facsimile transmission or otherwise, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any

assets or property, including, but not limited to, cash, free credit balances, fully paid for securities, and/or property pledged or hypothecated as collateral for loans, owned by, controlled by, or in their possession.

B. That any financial or brokerage institution or other person or entity located within the jurisdiction of the United States courts and holding any such funds or other assets, in the name, for the benefit or under the control of Frederick Kunen, Morgan, as Personal Representative of the Kunen Estate, and/or the Kunen Estate, and which receives actual notice of this order by personal service, facsimile or otherwise, shall hold and retain within its control and prohibit the withdrawal, removal, transfer, disposition, pledge, encumbrance, assignment, set off, sale, liquidation, dissipation, concealment, or other disposal of any such funds or other assets.

III.

SWORN ACCOUNTING

IT IS FURTHER ORDERED that within twenty (20) days of the issuance of this Order, Morgan shall:

A. make a sworn accounting to this Court and the Commission of all assets, funds, or other properties held by the Kunen Estate, and/or Morgan, as Personal Representative of the Kunen Estate, jointly or individually, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and

B. provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind) in which the Estate of Kunen (whether solely or jointly), directly

or indirectly (including through a corporation, partnership, relative, friend or nominee), either has an interest or over which it has the power or right to exercise control.

IV.

RECORDS PRESERVATION

IT IS FURTHER ORDERED that, pending determination of the Commission's request for an Order Freezing Assets, Morgan, his directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property of or pertaining to Defendants wherever located, until further Order of this Court.

V.

EXPEDITED DISCOVERY

IT IS HEREBY FURTHER ORDERED that:

A. Immediately upon entry of this Order, the parties may take depositions upon oral examination of, and obtain the production of documents from, parties and non-parties subject to two (2) business days notice. Should Defendant fail to appear for a properly noticed deposition, he may be prohibited from introducing evidence at the show cause hearing;

B. Immediately upon entry of this Order, the parties shall be entitled to serve interrogatories, requests for the production of documents and requests for admissions. The parties shall respond to such discovery requests within five (5) calendar days of service;

C. All responses to the Commission's discovery requests shall be delivered to Roger Cruz, Esq., Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131, by the most expeditious means available; and

D. Service of discovery requests shall be sufficient if made upon the parties by facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means.

VI.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction over this matter and Defendant in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

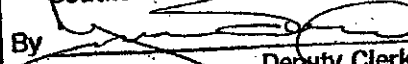
DONE AND ORDERED on this 23 day of August, 2007, at Miami, Florida.


UNITED STATES DISTRICT JUDGE

Copies to:

Roger Cruz, Esq.
Securities and Exchange Commission

ALAN S. GOLD

Certified to be a true and correct copy of the document on file	
Clarence Maddox, Clerk, U.S. District Court Southern District of Florida	
By	 Deputy Clerk
Date	<u>8-23-07</u>