

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 07-22204-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 GRANTING MOTION TO SHOW CAUSE WHY DR. HOWARD FIELDS  
SHOULD NOT BE HELD IN CONTEMPT AND COMPELLING DR. FIELDS TO  
APPEAR FOR DEPOSITION AND PRODUCE DOCUMENTS AND  
ORDER HOLDING IN ABEYANCE REQUEST FOR ATTORNEYS FEES AND COSTS**

**THIS CAUSE** is before the Court on the Court-appointed Receiver's Motion For an Order to Show Cause Why Dr. Howard Fields Should not be Held in Contempt and to Compel Dr. Fields to Appear for Deposition and Produce Documents [DE 28]. This matter was referred to the undersigned by Honorable Alan S. Gold, District Court Judge for the Southern District of Florida. [DE 31].

This Court issued an Order to Show Cause and held a properly noticed hearing on its Order on November 19, 2007. [DE 36]. Counsel for Court-appointed Receiver provided evidence of Dr. Fields' failure to appear at two depositions to which Dr. Fields was the subject of a properly served subpoena duces tecum. Dr. Fields did not appear at the Show

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Cause Hearing or otherwise provide the Court with any reason for his failure or inability to appear at the scheduled and noticed depositions. Upon review of the record, the applicable law, review of evidence and argument presented by counsel to the Receiver and being otherwise duly advised in the premises, it is hereby

**ORDERED AND ADJUDGED** that the Receiver's Motion to Compel Dr. Fields to Appear for Deposition and Produce Documents [DE 28] is **Granted-in-part** as follows: Pursuant to Federal Rule of Civil Procedure 45(e), Dr. Howard Fields, who is under subpoena duces tecum issued in the above-captioned cause, is ordered to appear on November 28, 2007 at 11:00 a.m., at Brickelmyer Smoker & Bolves, P.A., 500 East Kennedy Blvd., Suite 200, Tampa, Florida 33602, and to produce documents pursuant to the properly served Subpoena for Deposition Duces Tecum (the "Subpoena").

It is further **ORDERED AND ADJUDGED** that the Receiver's request for Dr. Fields to pay the attorneys' fees and expenses incurred by the Receiver in connection with the October 4, 2007, deposition and for attorneys' fees and costs in connection with bringing its Motion is **Held in abeyance** pending further report from the Receiver as to Dr. Fields compliance or noncompliance with this Order.

It is further **ORDERED AND ADJUDGED** that the Receiver is directed to serve Dr. Howard Fields with a copy of this Order.

**DONE AND ORDERED** in Chambers, at Miami, Florida, this 20<sup>th</sup> day of November 2007.

  
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**WILLIAM C. TURNOFF**  
**UNITED STATES MAGISTRATE JUDGE**

cc: Hon. Alan S. Gold  
All counsel of record  
Dr. Howard Fields