

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 632/January 9, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12436

In the Matter of	:	
	:	ORDER REQUIRING THE PRODUCTION
BRENDAN E. MURRAY	:	OF DOCUMENTS
	:	
	:	

On December 1, 2006, I signed applications for two subpoenae duces tecum presented by Respondent Brendan E. Murray (Murray). The subpoenae seek the production of documents from the law firms of Willkie Farr & Gallagher LLP and Herzfeld & Rubin PC. The law firms are not parties to the proceeding.

The law firms received the subpoenae no later than December 11, 2006. They filed a three-page application to quash the subpoenae on December 22, 2006. See Rule 232(e)(1) of the Rules of Practice of the Securities and Exchange Commission. The application to quash argues that the subpoenae seek information that is irrelevant to the issues in this proceeding. It also asserts that compliance with the subpoenae would be unreasonable, oppressive, and unduly burdensome. Finally, the application claims that some responsive material may be subject to the attorney-client privilege and the work product doctrine. By affidavit dated December 29, 2006, and served January 6, 2007, Murray opposes the application to quash.

The application to quash is entirely perfunctory. It makes no effort to quantify the number of responsive documents, or to tie the invocation of purported privileges to specific documents. It does not offer to provide redacted documents to cure any perceived privilege issues. Nor does the application seek reasonable compensation in advance for the cost of copying or transporting documents. I consider the opportunity to raise such matters to have been waived. I find no merit to the application to quash, and I deny it.

IT IS ORDERED THAT Willkie Farr & Gallagher LLP and Herzfeld & Rubin PC shall comply with the December 1, 2006, subpoenae duces tecum forthwith. I decline to impose any prepayment requirement on Murray.

James T. Kelly
Administrative Law Judge