

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROBERT M. MORGENTHAU,
District Attorney of New York County,

Plaintiff-Claiming Authority,

-against-

L. DENNIS KOZLOWSKI and
MARK H. SWARTZ,
Defendants.

Index No.

NOTICE OF TEMPORARY
RESTRAINING ORDER

To: Tyco International Ltd.
9 West 57th Street
New York, NY 10019
Attn: Boies Schiller

Fax: (646) 282-8554

The following account(s) should be restrained. Additionally, any other account(s) and/or safe deposit box(es) should also be restrained if in the name of either of the aforementioned defendants or if either of the aforementioned defendants has a legal, equitable, custodial or beneficial interest in these account(s) and/or safe deposit box(es) (whether or not that interest is held individually or jointly with any other person).

Defendants

LEO DENNIS KOZLOWSKI
MARK H. SWARTZ
GV REALTY TRUST
MAYO REALTY TRUST
KD NOMINEE TRUST
KFT FAMILY PARTNERSHIP
Kozlowski Family Partnership, LP

Accounts

ANY AND ALL
ANY AND ALL
ANY AND ALL
ANY AND ALL
ANY AND ALL
ANY AND ALL
ANY AND ALL

KMS FAMILY PARTNERSHIP, LP	ANY AND ALL
Swartz Family Partnership	ANY AND ALL
SEA HOLDINGS, LLC	ANY AND ALL
STRAWS POINT REALTY TRUST	ANY AND ALL
SEA LAKE TRUST	ANY AND ALL
50-33 CPS TRUST	ANY AND ALL
EGRET POINT LLC	ANY AND ALL
LOCKE ROAD REALTY TRUST (ONE LOCKE RD REALTY TRUST)	ANY AND ALL
HARBOR RD REALTY TRUST (126 HARBOR ROAD REALTY TRUST)	ANY AND ALL

NOTICE OF AN ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINING ORDER

1. NOTICE IS HEREBY GIVEN pursuant to CPLR section 1320(2) that on September 10, 2002, Judge William J. Davis of the Supreme Court of the State of New York, County of New York, issued a Temporary Restraining Order upon the property of the aforementioned defendants, or property in which either of the defendants has a legal, equitable, custodial or beneficial interest, and upon such debts owing to the defendants as will satisfy the amount specified in this order, to wit, the sum of Six Hundred Million Dollars (\$600,000,000). This order covers any accounts in the name of either of the aforementioned defendants (whether held individually or jointly with any other person or entity), or in which either of the aforementioned defendants has a legal, equitable, custodial or beneficial interest, as well as any Safe Deposit Box(es) in the name of either of the aforementioned defendants (whether held individually or jointly) or upon which either of the aforementioned defendants has an authorized signatory and/or has a legal, equitable, beneficial, or custodial interest.

2. In addition, please be advised that pursuant to CPLR section 1325 you, as garnishee, must serve upon the claiming agent within ten days after the service upon you of the Temporary Restraining Order, a statement specifying all debts of the garnishee to the defendants, when the debts are due, all property in the possession or custody of the garnishee in which either of the defendants have an interest, and the amounts and value of the debts and property specified. If the garnishee has money belonging to, or is indebted to, the defendants in at least the amount of the temporary restraining order, he or she may limit his or her statement to that fact, including the amount restrained.

Attached herewith is the Order to Show Cause with Temporary Restraining Order.

The names and addresses, dates of birth and Social Security numbers (if available) of the defendants are as follows:

<u>Name and Address</u>	<u>Date of Birth</u>	<u>Soc. Sec. No.</u>
Leo Dennis Kozlowski	11/16/1946	144-38-5853
Mark H Swartz	8/1/1960	019-38-1259

You may call me at the number below if you have any questions or my assistant, Melanie Guinyard (212-335-8981).

Dated: September 12, 2002

Yours truly,

ROBERT M. MORGENTHAU
District Attorney, New York County
Plaintiff-Claiming Authority

BY:


Anne B. Rudman
Assistant District Attorney
New York County District
Attorney's Office
One Hogan Place
New York, New York 10013
(212) 335-9325

At Ex-Parte Motion Office of the
 Supreme Court of the State of New
 York, held in and for the County
 of New York at the Courthouse, 60
 Centre Street, New York, New York
 on the 10th day of September 2002

PRESENT:

HONORABLE

WILLIAM J. DAVIS

Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK
 -----X

ROBERT M. MORGENTHAU,
 District Attorney of New York County, : Index No. /02
 Plaintiff-Claiming Authority : ORDER
 -against- : TO SHOW CAUSE

L. DENNIS KOZLOWSKI AND
 MARK H. SWARTZ,

Defendants. :
 -----X

Upon reading and filing the summons, verified
 complaint and affirmation of Assistant District Attorney
 Anne B. Rudman dated September 10, 2002 and the exhibits
 attached thereto,

Let the defendants L. Dennis Kozlowski and Mark H.
 Swartz, or their attorneys, show cause before this Court at
 the Ex-Parte Motion Office (Room 315) to be held in the
 Courthouse, 60 Centre Street, New York, New York and upon
 assignment to an IAS Judge on the 24th day of September,
 2002, at 9:30 a.m. of that day or as soon thereafter as

09/12/2002 THU 09:18 [TX/RX NO 98561] 004

02/09/2004 MON 11:14 [TX/RX NO 8291] 008

counsel can be heard, why an order should not be granted herein:

(a) For an order of attachment pursuant to CPLR sections 1312 and 1316 against the assets of defendants L. Dennis Kozlowski and Mark H. Swartz, and any interest of said defendants in personal and/or real property or any debt owed to said defendants, situated in the State of New York to the extent of Six Hundred Million Dollars (\$600,000,000.00) and;

(b) For a preliminary injunction, pursuant to CPLR sections 1312, 1333, and 1335 of Article 13-A, enjoining defendants L. Dennis Kozlowski and Mark H. Swartz and all persons or entities having property of said defendants in their possession, and those persons and entities having knowledge of the order, from transferring, assigning, disposing of, encumbering, secreting any legal, equitable, custodial or beneficial interest of said defendants L. Dennis Kozlowski and Mark H. Swartz including, but not limited to, any legal, equitable, custodial or beneficial interests that defendants L. Dennis Kozlowski and Mark H. Swartz have in any real or personal property wherever located, whether jointly or individually held, or any debts owed to said persons, to the extent of Six Hundred Million Dollars (\$600,000,000.00)

NOW, IT BEING alleged by said affirmation, and the exhibits attached thereto, including the Summons and Complaint, that the defendants or persons acting in concert with the defendants may transfer, assign, dispose of, encumber or secrete property, and that Claiming Authority is entitled to an order under CPLR Article 13-A enjoining L. Dennis Kozlowski and Mark H. Swartz and all other persons or entities having property of said defendants, and those persons having knowledge of the order, from transferring, assigning, disposing of, encumbering and/or secreting such property pending the hearing of this motion, and

IT BEING FURTHER alleged that immediate and irreparable injury, loss, or damage may result to the Claiming Authority before notice can be served and a hearing had, it is

ORDERED, pending the hearing of plaintiff's motion for an order of attachment and preliminary injunction, pursuant to CPLR sections 1312, 1316, 1333 and 1335 of Article 13-A, that defendants L. Dennis Kozlowski and Mark H. Swartz and all persons or entities having property of said defendants in their possession are restrained from removing, transferring, assigning, disposing of, encumbering, and/or secreting any legal, equitable,

custodial or beneficial interest of said defendants including, but not limited to, any legal, equitable, custodial or beneficial interests that the defendants have in any real or personal property wherever located, or whether jointly or individually held, or in any debts owed to said defendants, to the extent of Six Hundred Million Dollars (\$600,000,000.00); and it is further

ORDERED that copies of this Order to Show Cause application for the provisional remedies of a temporary restraining order, order of attachment and preliminary injunction, together with copies of the papers upon which it was granted, and a summons and complaint be personally delivered to the defendants on or before September 13TH, 2002, and that such be deemed due and sufficient service of notice of this order; and it is further

ORDERED that these papers shall be filed with the Clerk of the Supreme Court, County of New York at 60 Centre Street within five days of the date hereof; and it is further

 ~~ORDERED that the claiming agent pursuant to CPLR 1317(2) may refrain from taking any property levied upon into his actual custody that is now in the possession of a garnishee or financial institution, until further order of the court, and it is further~~

ORDERED that the County Clerk is hereby directed
pursuant to CPLR 1311(6) to seal the file under the above-
entitled caption until such time as the property which is
the subject of this forfeiture actions had been levied
upon.

ENTER: 

Justice of the Supreme Court

ROBERT M. MORGENTHAU
New York County District Attorney
One Hogan Place
New York, New York 10013
(212) 335-9000

Attn: Anne B. Rudman
Assistant District Attorney
(212) 335-9325

I, Anne B. Rudman, an attorney at law, do hereby certify
pursuant to Rule 2106 CPLR, that I have compared the foregoing with the
original and have found it to be a true and complete copy.
DATE: 
ANNE B. RUDMAN
TYPED OR PRINTED NAME