

<b>Matter of Koenigsberg</b>
2007 NY Slip Op 31803(U)
June 6, 2007
Supreme Court, New York County
Docket Number: 0107952/2007
Judge: William P. McCooe
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At the Ex Parte Motion Term of the Supreme Court of the State of New York held in and for the County of New York at the Courthouse located at 60 Centre Street, New York, New York on the 7th day of June, 2007.

P R E S E N T:  
Hon. **WILLIAM P. McCOOE**  
Justice

**FILED**

JUN - 7 2007

NEW YORK  
COUNTY CLERK'S OFFICE

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 In the Matter of the Application :  
 of Norman Koenigsberg and Steven :  
 Koenigsberg, for an Order to : 3102(e)  
 depose Richard Clapsaddle, CPA : EX PARTE ORDER  
 a non-party New York resident, as :  
 Ordered by a Foreign Order :  
 pursuant to CPLR 3102(e), : Index No.: 107952/07  
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Upon the affirmation of Averim Stavsky, dated June 6, 2007, with an exhibit annexed hereto, it is

ORDERED that the non-party witness, Richard Clapsaddle, CPA, who is a resident of the State of New York with his place of employment at Clapsaddle & Co., 701 Westchester Avenue, Suite 302W, White Plains, New York 10604, be directed pursuant to CPLR 3102(e), to appear before a notary public to testify, give evidence, answer questions and produce documentation regarding the matter set forth in the Order for his deposition as issued on May 11, 2007 by the Honorable Alexander D. Lehrer, of the Superior Court of New Jersey, Monmouth County, and produce the records as indicated in "Schedule 1" with regard to an action now pending in the State of New Jersey known as Norman Koenigsberg and Steven Koenigsberg, plaintiffs, v. Worldwide Financial Resources, Inc., defendant, Superior Court of

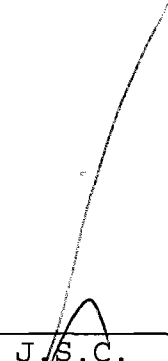
New Jersey, Chancery Division: Monmouth County, Docket No.: C-64-07. It is further,

ORDERED that Richard Clapsaddle, CPA, appear at 10:00 a.m. on July 9, 2007 at Dalco Reporting, Inc., located at 170 Hamilton Avenue, White Plains, New York, for said deposition and that he brings with him those documents as indicated in "Schedule 1" of the Subpoena Duces Tecum. It is further,

ORDERED that personal service of a copy of this Order together with a Subpoena and Subpoena Duces Tecum on the above named witness on or before the 13<sup>TH</sup> day of June, 2007 shall be deemed sufficient service. It is further,

ORDERED that a copy of this Order be mailed or faxed to the respective attorneys in the New Jersey action on or before the 13<sup>TH</sup> day of June, 2007.

ENTER

  
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 J/S.C.  
**FILED**  
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 NEW YORK  
 COUNTY CLERK'S OFFICE

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

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In the Matter of the Application :   Index No.: 107952/07
of Norman Koenigsberg and Steven :
Koenigsberg, for an Order to    :   AFFIRMATION IN SUPPORT
depose Richard Clapsaddle, CPA  :   OF NON-PARTY DEPOSITION
a non-party New York resident, as :   PURSUANT TO CPLR 3102(e)
Ordered by a Foreign Order      :
pursuant to CPLR 3102(e),       :
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AVERIM STAVSKY, an attorney duly admitted to the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am of counsel to the law firm of Budd Lerner, P.C., attorneys for Norman Koenigsberg and Steven Koenigsberg, the plaintiffs in a lawsuit now pending in the Superior Court of New Jersey, Chancery Division: Monmouth County, entitled Norman Koenigsberg and Steven Koenigsberg, plaintiffs, v. Worldwide Financial Resources, Inc., defendant, Superior Court of New Jersey, Chancery Division: Monmouth County, Docket No.: C-64-07.

2. The New Jersey lawsuit is an action based on fraud, discussed infra, against the defendant, Worldwide Financial Resources, Inc. ("Worldwide").

3. I make this affirmation pursuant to CPLR 3102(e) in support of plaintiffs' application for an Order to examine Richard Clapsaddle, CPA, who resides in the State of New York and whose principal place of business is located at Clapsaddle & Co., 701

Westchester Avenue, Suite 302W, White Plains, New York 10604, as a non-party witness.

4. Richard Clapsaddle, CPA, was and is the accountant for defendant, Worldwide.

5. Attached hereto as Exhibit "A" is the New Jersey Commission and Order, dated May 11, 2007, issued by the Honorable Alexander D. Lehrer, of the Superior Court of New Jersey, Monmouth County, which directs that Richard Clapsaddle, CPA, appear for an oral examination in this matter and bring with him documentation as set forth in "Schedule 1".

6. This matter arises out of the egregious mismanagement and gross financial misrepresentations of defendant Worldwide's affairs through the acts and direction of David Findel, its majority shareholder. The fraudulent and impermissible conduct includes, but is not limited to, (a) the destruction of corporate documents being sought by the New Jersey State Tax authorities; (b) issuance of fictitious Internal Revenue Service form 1099's to approximately 50 Worldwide employees; and (c) depositing a check from the United States Treasury to Great American Mortgage Corporation and Stuart Frederick into Worldwide's bank account.

7. In addition to the above, Worldwide's audited financial statements contain numerous gross misrepresentations including, but not limited to, (a) listing the value of real property owned by Worldwide in Old Bridge, New Jersey (the "Old Bridge Property") as over \$4 Million inclusive of a cash deposit of \$1.2 Million; (b)

reporting \$711,431.00 as office equipment; (c) reporting "art work", currently valued at \$109,725.00, which Worldwide does not own or has never owned; (d) listing a mortgage receivable in the amount of \$250,000 which was never disclosed to plaintiff Norman Koenigsberg and has never been verified by Mr. Clapsaddle; and (e) reporting an investment in technology of \$1,301,677 which is less than half that amount and should not even had appeared on Worldwide's 2006 audit due to transfers.

8. Based on the above, plaintiff seeks the relevant testimony of defendant's accountant, Richard Clapsaddle, CPA, who prepared the subject financial records and the production of relevant documents from Mr. Clapsaddle and/or his accounting firm, Clapsaddle & Co. Attached hereto as Exhibit "B" is a true and accurate copy of the proposed Subpoena and Subpoena Duces Tecum with the document request attached thereto as "Schedule 1".

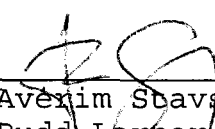
9. Counsel for the defendant did not oppose plaintiff's New Jersey application for a commission to obtain the necessary discovery from the subject New York witness.

10. No previous application for a Subpoena or a Subpoena Duces Tecum has been made.

WHEREFORE, the deponent therefore prays that a Subpoena and Subpoena Duces Tecum be issued requiring Richard Clapsaddle, CPA, to appear at Dalco Reporting, Inc., located at 170 Hamilton Avenue, White Plains, New York, on July 9, 2007 at 10:00 a.m. for an oral examination relating to the matters hereinabove recited and produce

at that time and place those documents as indicated in "Schedule 1"  
to the Subpoena.

Dated: New York, New York  
June 6, 2007

  
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Avexim Stavsky, Esq.  
Budd Larner, P.C.  
Attorneys for Plaintiffs  
Norman Koenigsberg and  
Steven Koenigsberg  
11 Penn Plaza, 5th Floor  
New York, New York 10001  
(212) 946-2798

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