

A bank in New York can be ordered to bring into New York property held by the bank for another outside New York in order to satisfy a judgment against that person, under a recent decision of New York's highest court. Please click [here](#) to see the decision in *Koehler v. Bank of Bermuda Ltd.*, \_\_\_ N.Y.3d \_\_\_, 2009 NY Slip Op 04297 (June 4, 2009) of the New York Court of Appeals.

This decision resolved the question whether New York judgment enforcement orders can reach only assets held in New York or whether they can reach all assets wherever held. The new decision, while it dealt specifically with corporate stock held in Bermuda, in principle reaches bank accounts and any other property held outside New York as well.

It was already the law that a turn-over order could compel the judgment debtor to bring into New York property held outside New York. The new decision extended that rule to a third party holding property of or owing money to the judgment debtor.

The Court relied on Article 52 of New York's Civil Practice Law and Rules, which governs the enforcement of money judgments. Article 52 authorizes a judgment creditor to file a court proceeding to compel someone holding an asset of the judgment debtor (or owing a debt to the judgment debtor) to turn over the asset or pay the money owed to the judgment debtor or the Sheriff. Parties holding assets or owing money are commonly banks where judgment debtors have accounts.

There are some limits on the effect of this decision. It does not require a bank to bring into New York assets held outside New York in response to an attachment order issued before a judgment is issued, but only when there is already a judgment. Also, the bank subject to the turn-over order can assert in Court its own interest in the property as being superior or prior to the turn-over order, such as when the bank has a right of set-off or holds the property as collateral. Third parties who might claim an interest in the property can also object to the turn-over.

The *Koehler* decision may well create significant administrative burdens on financial institutions and, in particular, on New York branches of foreign banks. Undoubtedly, New York courts will have to weigh the rights of judgment creditors against the rights of New York branches of foreign banks which may be subject to other countries' bank privacy regulations.

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