

Tyco's former CEO and CFO are convicted of stealing more than \$600 million from the company National Public Radio

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By Nancy Solomon

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SCOTT SIMON, host:

This is WEEKEND EDITION from NPR News. I'm Scott Simon.

Tyco International's former chief executive, Dennis Kozlowski, and his chief financial officer, Mark Swartz, could face long terms as guests of the state of New York. The two men were convicted yesterday of stealing more than \$600 million from the company. Since their indictments in 2002, Mr. Kozlowski and Mr. Swartz have become symbols of greed and corporate mismanagement. This was their second trial. The first one ended in mistrial after six months. NPR's Nancy Solomon reports from New York.

NANCY SOLOMON reporting:

As the 22-year-old jury foreman pronounced each guilty verdict, the defendants sat perfectly still and showed no emotion. The former Tyco executives were convicted of 12 grand larcenies, falsifying business records, conspiracy and stock fraud. Prosecutors argued Kozlowski and Swartz used two management loan programs to purchase homes, apartments, yachts and big-name artwork. Whenever the loan balances would reach into double-digit millions, the pair would award themselves bonuses that would pay down the loans. There was only one acquittal for each man and that was on a minor business record charge. Manhattan District Attorney Robert Morgenthau had a team of five prosecutors on this case for three years.

Mr. ROBERT MORGANTHAU (Manhattan District Attorney): This verdict is an endorsement of the principle of equal justice under law. Crimes committed in corporate offices will be treated according to the same standards as other crimes. Nobody is above the law.

SOLOMON: Morgenthau praised the jury, which asked to see more than a hundred documents during their deliberations and seems to have worked very hard to sort through all the complex accounting concepts. The defense attorneys had used their peremptory challenges during jury selection to remove people who had college degrees or business experience. Tom Curran is a former white-collar crime prosecutor who once worked for Morgenthau and is now a defense attorney. He says the strategy of choosing blue-collar jurors backfired, especially given the huge amounts of money the defendants were paid.

Mr. TOM CURRAN (Defense Attorney): The numbers were such that very few people, unless you have Donald Trump on your jury, are going to be able to treat those kind of numbers without some sense of shock.

SOLOMON: It's questionable what kind of impact the verdict will have on the larger issues of corporate governance and executive pay. Lucian Bebchuk, a Harvard business professor and co-author of the book, "Pay Without Performance," says the Tyco case will do little to inject some control over the massive pay of top executives.

Professor LUCIAN BEBCHUK (Harvard Business School): Good corporate governance cannot be produced by the blind instrument of the criminal law. And the problem we have had with executive pay is not that executives took something that was not approved but rather that boards and directors approved pay packages that have not been in the interest of shareholders.

SOLOMON: Instead of high-profile criminal cases, Bebchuk suggests that shareholders have more power to vote in company boards and get more information about executive pay. The only comment from the defendants came from their attorneys, who say they will appeal. But that's not likely to happen before their sentencing scheduled for August 2nd. They could get anywhere from eight to 30 years in state prison. Nancy Solomon, NPR News, New York.