

STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. BAR-05-08

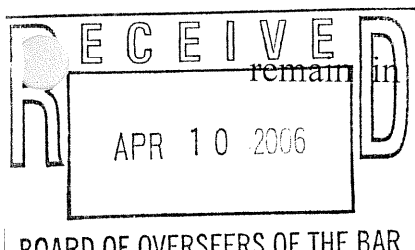
In RE: Thomas R. Acker]	
of Denmark, ME]	Order on Motion for Appointment
Me. Bar No. 3381]	of Receiver to Protect Former
]	Clients' Interests (M. Bar R. 7.39f);
]	and to Permit Limited Discovery
]	

This matter having come before the undersigned Associate Justice of the Maine Supreme Judicial Court upon petition of the Board of Overseers of the Bar for an order appointing a Receiver to protect the interests of the former clients of suspended attorney Thomas R. Acker, the Court makes the following Order:

FINDINGS OF FACT

1. Prior to the initiation of this disciplinary proceeding, Thomas R. Acker of Denmark, Maine, was engaged in the practice of law as a sole practitioner with an office in Gorham, Maine. Mr. Acker was suspended from the practice of law by this Court on December 23, 2005. Mr. Acker's suspension renders him unable to continue his legal practice.

2. Based on the Board's offer of proof, there are recent, former clients of Mr. Acker whose legal documents and business records remain in Mr. Acker's possession. Despite their repeated efforts,



these former clients have been unable to retrieve their respective materials from Mr. Acker.

3. Mr. Acker failed to appear for a hearing on the Board's motion seeking the appointment of a receiver held on March 29, 2006. Beginning on or about February 27, 2006, Mr. Acker was hospitalized for a period of approximately seventeen days. His current physical and mental condition is unknown to the Court.

4. Mr. Acker's suspension from the practice of law, his failure to return documents to his former clients, and his failure to appear at scheduled hearings in this disciplinary proceeding, make it necessary for a Receiver to be appointed to protect the interests of Thomas R. Acker's former clients.

THEREFORE, pursuant to Maine Bar Rule 7.3(f), it is ORDERED as follows:

1. Receiver

Wayne E. Tumlin, Esq., of Portland, Maine, is appointed as Receiver and directed to:

A. Secure any and all professional records and files in the possession or control of Thomas R. Acker related to his clients which were active as of January 1, 2002, or opened subsequent thereto. All

of these client-related records and files are to be provided by Mr. Acker to the Receiver regardless of Mr. Acker's characterization of a particular client as a legal, tax, financial, investment, or some other type of professional client. Hence, if the records and files were maintained by Mr. Acker in any business or professional capacity during the above-outlined time period, they are to be included in the turnover to the Receiver.

B. Make an inventory of such records and files, and file the inventory with the Court under seal. Copies of the inventory shall be provided to the Board and to Mr. Acker.

C. Take such further appropriate action as the Receiver, in the exercise of his discretion, deems necessary to protect the interests of such former clients including, but not limited to, reporting to this Court; contacting former clients to inform them how to obtain their files; informing clients of the need to obtain new legal counsel; and/or referring clients to new counsel in the appropriate cases.

D. Advise the Court and the Bar Counsel when the purposes of this appointment appear to have been completed.

Compensation: The Receiver shall be reimbursed for reasonable expenses and compensated for professional services at the rate of

\$50.00 per hour plus expenses by the Board of Overseers of the Bar.

The Board may, by a motion filed with the Court, seek reimbursement of the same from Mr. Acker.

2. Delivery of Professional Records

Mr. Acker shall deliver the above-described records and files to the Court-appointed Receiver as directed by the Receiver and, in any event, no later than 10 days from the date of this Order. Upon his delivery of the records and files to the Receiver, Mr. Acker shall file with the Court under seal a written statement that confirms that he has delivered all of the records and files required by this Order, and identifies the records and files delivered by client name and address. A copy of the same shall be provided to the Board and the Receiver.

IT IS FURTHER ORDERED AS FOLLOWS:

The Board shall be permitted to perform limited discovery regarding Thomas R. Acker's mental condition and status. Within ten days of the entry of this Order, Mr. Acker shall either produce complete copies of the admission and discharge reports, and the reports of any psychiatric or psychological diagnostic evaluations, associated with his treatment by M. Ed. Kelley, M.D. and St. Mary's Regional Hospital in February and March 2006. In the alternative, Mr. Acker shall sign such releases and authorizations deemed necessary by the Board to enable the Board to obtain the records directly from Dr. Kelley and St. Mary's Regional

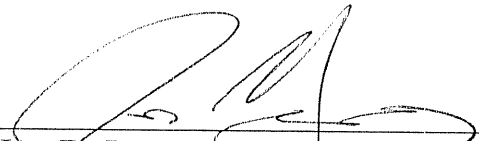
Hospital. Upon the Board's receipt of the records, it may move the Court for permission to conduct additional discovery that it believes is necessary. **All records and court-filings associated with Mr. Acker's mental condition and status shall be deemed confidential, shall not be shared with third-parties absent prior approval of the Court, and copies of the same shall be filed under seal with the Clerk of Court.**

4. Maine Assistance Program for Lawyers and Judges (MAP)

At his own expense, Mr. Acker shall immediately contact and enter into a contractual relationship with MAP, to the satisfaction of the Director of MAP. The Director of MAP shall report to the Court on the need for the appointment of a guardian ad litem or other representative pursuant to M.R. Civ. P. 17(b) to represent Mr. Acker's interests in this proceeding. The Director of MAP may also, at his discretion, report to the Court from time-to-time on the status of Mr. Acker's involvement with MAP.

The Clerk is directed to forward copies of this Order to the Receiver, Wayne E. Tumlin, Esq., and to David Kee, Esq., Director of the Maine Assistance Program. The Clerk is further directed to forward copies of this Order to Thomas R. Acker at the following addresses: (1) 177 West Shore Road, Denmark, Maine 04022, and (2) c/o Elihu J.U. Acker, 184 Hilton Road, Denmark, Maine 04022.

Dated: April 7, 2006



Jon D. Levy, Associate Justice
Maine Supreme Judicial Court

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