

STATE OF MAINE

MAINE SUPREME JUDICIAL COURT

BAR-12-3

IN RE:

**Carolyn M. Asquith
Bar No. 9426**

**Order Discharging Receiver Appointed
to Protect Clients' Interest M. Bar. R.
7.3(f)**

THIS MATTER having been heard by the undersigned Justice of the Court, upon motion of the Receiver herein for an order discharging David R. Weiss as Receiver of the law practice of suspended attorney Carolyn M. Asquith, the Court makes the following findings of facts and conclusions of law:

FINDINGS OF FACTS

1. On October 9, 2012, upon motion of the petitioner, the Board of Overseers of the Bar, the Court appointed David R. Weiss, Esq., as Receiver of the law practice of Carolyn M. Asquith for the purpose of securing or attempting to secure professional files, client property, and client funds; inventorying the open and closed client files; notifying clients of the Receiver's appointment; and providing opportunity for clients to make decisions about the status of their respective legal matters and representation.

2. David R. Weiss, Receiver of the law practice of suspended attorney Carolyn M. Asquith, acting in good faith, has exercised due diligence and taken all reasonable steps to fulfill his obligations as Receiver of the law practice of Carolyn M. Asquith. He has returned or attempted to return all professional files. He has exercised due

diligence to determine whether the suspended attorney Carolyn M. Asquith's law practice possessed or controlled client property and client funds at the time of, or shortly before, the undersigned was appointed Receiver, and, acting in good faith, has concluded that, to the best of his knowledge, no such property or funds existed.

3. Receiver Weiss has reviewed the law practice of Carolyn M. Asquith's clients' files, to the extent that those files were actually provided to him by suspended attorney Carolyn M. Asquith. An inventory of the client files is attached hereto as Exhibit A. When Receiver Weiss discovered that some of Carolyn M. Asquith's clients' files were not provided to him as required by Justice Levy's Order for Appointment of Receiver, he took reasonable steps to recover undelivered files. The fact that suspended attorney Carolyn M. Asquith refused or otherwise failed to deliver some of her clients' files is beyond the control of Receiver Weiss. Moreover, Receiver Weiss took appropriate steps to notify former clients of the law practice of Carolyn M. Asquith whose files were not delivered to Receiver Weiss of this development.

4. Receiver Weiss has distributed files to a number of clients and/or former clients of the law practice of Carolyn M. Asquith. Receiver Weiss has returned, whenever possible, all active client files to the respective clients. A list of the files that have been returned to the law practice of Carolyn M. Asquith's former clients is attached hereto as Exhibit B.

5. A number of the law practice of Carolyn M. Asquith's clients have not picked up their files, despite Receiver Weiss' good faith effort to notify them that they should do so. Receiver Weiss now has in his possession 190 apparently closed files. Also in

possession of Receiver Weiss are eight apparently non-GAL Parent Coordinating active client files wherein Receiver Weiss has written the respective clients and has received no instruction regarding the storage or return of the files. A list of the unclaimed, open and closed files is attached hereto as Exhibit C.

6. Some disposition needs to be made for the remaining active and closed files of suspended attorney Carolyn Asquith's former clients. The Board of Overseers of the Bar is the most appropriate caretaker of the remaining files. The Board of Overseers of the Bar is willing and able to execute these duties and is familiar with the proper method for distribution, scanning for digital storage and confidential destruction of those files.

7. Receiver Weiss has submitted a summary of his time and expense incurred in serving as Receiver of the law practice of Carolyn Asquith. The summary of his time and expenses is attached hereto as Exhibit D. In carrying out his duties as Receiver, Receiver Weiss and his associate lawyer, Kevin J. Crosman, have provided services in the total amount of \$8,137.50 and incurred expenses in the total amount of \$318.43.

Based on the foregoing FINDINGS OF FACT, the Court makes the following conclusions of law:

1. David R. Weiss, Receiver of the law practice of suspended attorney Carolyn M. Asquith, has taken all reasonable steps to discharge his obligations as Receiver of the law practice of suspended attorney Carolyn M. Asquith, to return all client files, and to determine, in good faith, that suspended attorney Carolyn M. Asquith did not possess or control any funds in her operating or trust accounts in need of disbursement.

2. Receiver Weiss is entitled to reimbursement of expenses incurred while serving as Receiver of the law practice of suspended attorney of Carolyn M. Asquith in the amount of \$318.43. His Attorney Fees, in the amount of \$8,137.50, were provided on a *pro bono* basis.

3. The Board of Overseers of the Bar shall be authorized to maintain in storage at its office located at 97 Winthrop Street, Augusta, Maine those files that have not yet been retrieved by the clients of suspended attorney Carolyn M. Asquith, pursuant to its established practices of distributing, archiving, and where and when possible, confidentially destroying those files.

THEREFORE, it is hereby ORDERED as follows:

1. David R. Weiss is discharged as Receiver of the law practice of suspended attorney Carolyn M. Asquith.

2. The Board of Overseers of the Bar is hereby authorized to maintain in storage at 97 Winthrop Street, Augusta, Maine those files that have not been retrieved by the clients of suspended attorney Carolyn M. Asquith from Receiver Weiss. The tending of those files will be accomplished in accordance with the Board of Overseers' established policies and practices for distribution, scanning for digital storage and appropriate confidential destruction of such files.

3. Receiver Weiss is entitled reimbursement for expenses incurred by him while serving in as Receiver to the law practice of suspended attorney Carolyn M. Asquith in the amount of \$318.43. Upon presentation of this Order, said expenses are to be paid by the Board of Overseers of the Bar to Receiver Weiss.

Dated: 10/17/13

/s/ Jon D. Levy
Justice, Maine Supreme Judicial Court