

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT PENNSYLVANIA

WILLIAM J. MANSFIELD, INC.,

Plaintiff,

v.

UDREN LAW OFFICES, P.C.,

Defendant.

Case No. 18-3569

ORDER APPOINTING RECEIVER

AND NOW, this _____ day of _____, 2018, upon consideration of the Emergency Motion to Appoint Receiver filed by Plaintiff William J. Mansfield, Inc. (“Mansfield Advertising”), it is ORDERED that the Motion is GRANTED. From the date of this Order forward (the “Effective Date”), _____ (the “Receiver”) is appointed pursuant to Rule 66 of the Federal Rules of Civil Procedure to act as Receiver for Udren Law Offices, P.C. (“Udren Law”).

It is further ORDERED as follows:

1. The Receiver is authorized and directed to immediately take and have exclusive control, possession, and custody of personal property, contract rights, bank accounts, tax accounts, escrow accounts, receivables and deposits belonging to Udren Law.

2. Udren Law, its representatives, managers and any person acting under its direction or control, shall immediately transfer or deliver the following to the Receiver, to the extent that any such items are in Udren Law’s possession, custody or control:

(a) all profits and proceeds derived from Udren Law on hand as of the Effective Date or collected thereafter;

(b) bank documents and statements for all funds, revenues, deposits and expenses administered for or concerning Udren Law;

(c) bills and account statements for items or services acquired from vendors or suppliers over the last 12 months;

(d) all tax bills related to Udren Law;

(e) books and records pertaining to accounts payable and accounts receivable with respect to Udren Law;

(f) copies of cumulative monthly operating statements for Udren Law generated over the last two years; and

(g) all such other items, records or documents that the Receiver may reasonably require to operate, manage and supervise the wind-down of Udren Law.

3. Immediately upon presentation of this Order, Udren Law shall give over to the Receiver copies of all records of (a) income, (b) expenses, and (c) receivables and payables that are in Udren Law's possession, custody or control. In the event such records exist but are not in Udren Law's possession, custody or control, then within ten days of the date of this Order, Udren Law shall collect from its consultants, professionals and employees copies of all records of income, expenses, receivables and payables relating to Udren Law since that same date and forward those materials to the Receiver. This Order shall be sufficient grounds for any such vendor or provider to supply this information to the Receiver should it become necessary for the Receiver to make the request.

4. The Receiver shall perform an audit and accounting as to the business and affairs of Udren Law.

5. Revenues generated or monies received are to be deposited in a segregated operating account at a financial institution insured by the FDIC.

6. With Respect to the wind-down of Udren Law, the receiver is authorized, but not obligated, to do the following without further order of this Court (unless limited by other provisions of this Order):

(a) demand, collect, receive, hold, maintain and reconcile any and all assets of Udren Law, or in Udren Law's possession, custody or control;

(b) liquidate and convert into money any claims, choses in action, receivables, liens or unliquidated interests of Udren Law;

(c) collect debts owed to Udren Law;

(d) pursue recovery of improper or unlawful distributions or payments;

(e) receive payment of any insurance benefit or claim on a policy issued to or for the benefit of Udren Law;

(f) terminate any bank account Udren Law owns or controls, or cancel the signatory authority of Udren Law or any of its principals or employees over such accounts and substitute the Receiver's signatory authority;

(g) employ and pay only personnel necessary to operate Udren Law as it winds down, including individuals currently working at Udren Law, to be hired in place of or to replace any employee presently or previously employed by Udren Law or Udren Law's agent; and

(h) pay outstanding obligations owed by Udren Law including to Mansfield Advertising.

7. The Receiver shall use its discretion to wind down, liquidate and dissolve Udren Law.

8. Udren Law shall not collect, remove, transfer, compromise, release, waive, forgive or divert or in any way funds associated with Udren Law except as permitted by this Order, and shall not exercise control or dominion over the operations and conduct Udren Law, or interfere with the Receiver's control of Udren Law.

9. The Receiver shall keep a true and accurate account of any and all receipts and expenditures.

10. The Receiver shall file with the Court a monthly management report that contains the income and expense statement for each month the Receiver manages the wind-down of Udren Law, within 15 days of the end of each calendar month. The reports shall also contain standard information related to the wind-down of Udren Law.

11. The Receiver shall be paid fees and reimbursed for expenses out of any resources or income generated by Udren Law. The Receiver shall be paid a flat monthly fee of _____.

12. All receiver fees and out of pocket costs shall be paid directly out of the net cash flow of Udren Law and shall have priority over all other expenses. In the event that the net cash flow of Udren Law is inadequate to pay the receiver's fees and to reimburse costs, funds on hand may be used; *provided, however*, that the Receiver shall not incur any single expense or cost greater than \$2,500 without first obtaining the Court's consent for each such expenditure.

13. The Receiver and any party hereto may, at any time, upon proper notice to the parties who have appeared in this action, apply to this Court for further or other instructions and for further power necessary to enable it to properly fulfill its duties as Receiver.

14. Udren Law shall have no right to interfere with or become involved in the performance by the Receiver of its rights, powers, privileges and duties hereunder.

15. The Court retains jurisdiction over this matter as necessary to enforce the powers of the Receiver and/or to compel performance of, and compliance with, this Order. The Receiver is authorized, upon application to this Court, to seek further enforcement and relief as necessary.

16. Upon dissolution of Udren Law, the Receiver shall submit a final report to the Court and move that the Court terminate the receivership.

17. Nothing herein shall be construed to prohibit the parties from seeking any other relief from the Court.

J.

IN THE UNITED STATES DISTRICT COURT
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WILLIAM J. MANSFIELD, INC.,

Plaintiff,

v.

UDREN LAW OFFICES, P.C.,

Defendant.

Case No. 18-3569

EMERGENCY MOTION TO APPOINT RECEIVER

Plaintiff William J. Mansfield, Inc. (“Mansfield Advertising”), by and through its counsel Fox Rothschild LLP, moves this Court to appoint a receiver immediately to supervise the winding down of Udren Law Offices, P.C. (“Udren Law”) for the benefit of its creditors and clients. In support thereof, Mansfield Advertising incorporates the attached Memorandum of Law. Mansfield Advertising respectfully requests an emergency hearing as soon as practicable.

By: 

Peter C. Buckley, Esquire

Jessica L. Kitain, Esquire

FOX ROTHSCHILD LLP

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT PENNSYLVANIA**

WILLIAM J. MANSFIELD, INC.,

Plaintiff,

v.

UDREN LAW OFFICES, P.C.,

Defendant.

Case No. 18-3569

**MEMORANDUM OF LAW IN SUPPORT OF MANSFIELD ADVERTISING'S
EMERGENCY MOTION TO APPOINT RECEIVER**

Plaintiff William J. Mansfield, Inc. (“Mansfield Advertising”), by and through its counsel Fox Rothschild LLP, submits this memorandum of law in support of its Emergency Motion to Appoint Receiver. Mansfield Advertising respectfully requests an emergency hearing as soon as practicable.

INTRODUCTION

Mansfield Advertising provides legal advertising services, including creating and publishing mortgage foreclosure notices in certain periodicals. Udren Law is a law firm that specializes in mortgage foreclosure with offices in Pennsylvania, New Jersey, and Florida. Mansfield Advertising and Udren Law had a business relationship for over twenty years. Mansfield Advertising regularly provided legal advertising services to Udren Law, often advancing payment to publish the mortgage foreclosure notices requested by the firm. At present, Udren Law owes \$139,357.74 to Mansfield Advertising for mortgage foreclosure notices that have already been published. Udren Law has refused to pay and, moreover, indicated that it is winding down its operations. Mansfield Advertising seeks the emergency appointment of a receiver to

supervise the winding down of Udren Law for the benefit of the firm's creditors and clients. In the absence of such oversight, Udren Law may waste resources that should otherwise satisfy its creditors or exercise improper preference in paying its debts. A receiver is also necessary to ensure the appropriate transition of Udren Law's clients and to make certain that client payments to Udren Law are used to satisfy Udren Law's obligations and not to enrich its shareholders or employees.

BACKGROUND

Pursuant to the parties' longstanding course of dealing, Udren Law requested that Mansfield Advertising create and publish notices relating to mortgage foreclosure actions in which Udren Law was acting as counsel. See Declaration of Mark A. Mansfield ("Mansfield") at ¶ 4, attached as "Exhibit A." As evidenced by the 86 unpaid invoices attached to Mansfield Advertising's Complaint, Mansfield Advertising created and paid to publish dozens of mortgage foreclosure notices for which it has not been paid by Udren Law. See Mansfield Declaration at ¶¶ 5-6 (Ex. A).

As Udren Law's obligations to Mansfield Advertising grew, Mansfield Advertising contacted Udren Law to inquire about payment. See id. at ¶ 7 (Ex. A). At first, Udren Law indicated that payment would be forthcoming, but later Udren Law disclosed its intent to wind-up its business, communicating uncertainty about when or if it would satisfy Mansfield Advertising's Invoices. See id. at ¶ 8 (Ex. A). On August 10, 2018, in an effort to gain clarity about Udren Law's operations and to follow up on several unreturned phone calls, Mansfield visited Udren Law's headquarters in New Jersey. See id. at ¶ 9 (Ex. A). Mark J. Udren, Esquire ("Udren"), principal of the firm, was said to be unavailable. See id. at ¶ 10 (Ex. A). Lorraine Geist ("Geist") of Udren Law acknowledged the firm's obligations, but she indicated that Udren Law could not provide a timetable for or guaranty of payment. See id. at ¶ 11 (Ex. A).

The undersigned counsel for Mansfield Advertising subsequently spoke with Geist, who indicated that Udren Law is in the process of collecting its accounts receivable, but that no further clarification was available. Geist said that Udren Law's obligation to Mansfield Advertising is not the firm's largest payable. Geist solicited a settlement proposal. Udren Law has not responded to Mansfield Advertising's recent attempts to discuss resolution or gain further clarity.

Udren Law's failure to honor its obligations to Mansfield Advertising has not only prejudiced Mansfield Advertising, but also Udren Law's clients. Mansfield Advertising is in possession of several affidavits of publication that are necessary to proceed with the related foreclosure actions, but Mansfield Advertising has appropriately refused to deliver them in accordance with the terms of the Invoices in view of Udren Law's large receivable. See id. at ¶ 12 (Ex. A).

LEGAL ARGUMENT

A. Standard For Appointing A Receiver

Rule 66 of the Federal Rules of Civil Procedure ("FRCP") governs appointment of a receiver. Manufacturers and Traders Trust Co. v. Minuteman Spill Response, Inc., 999 F.Supp.2d 805, 816 (W.D. Pa. 2013). The decision to appoint a receiver is within the Court's discretion. Id. The Court should appoint a receiver in cases where the plaintiff clearly and sufficiently shows that an emergency exists and a receiver is necessary to protect the plaintiff's property interests. Id. Courts in the Third Circuit look to nine factors to determine whether the plaintiff has met its burden of showing that an emergency exists requiring the appointment of a receiver: "(1) the probability of the plaintiff's success in the action; (2) the possibility of irreparable injury to the plaintiff's interests in the property; (3) the inadequacy of the security to satisfy the debt; (4) the probability that fraudulent conduct has occurred or will occur to frustrate the plaintiff's claims; (5) the financial position of the debtor; (6) the imminent danger of the property being lost, concealed,

injured, diminished in value, or squandered; (7) the inadequacy of available legal remedies; (8) the lack of a less drastic equitable remedy; and (9) the likelihood that appointing a receiver will do more harm than good.” *Id.* (citing Comercia Bank v. State Petroleum Distributors, Inc., 3:08-CV-678, 2008 WL 255053, at *4 (M.D. Pa. June 2, 2008)).

B. The Court Should Appoint A Receiver To Supervise The Wind-Down Of Udren Law For The Benefit Of Its Creditors And Clients.

The factors support the appointment of a receiver here:

1. Probability of Success. Udren Law has admitted that it owes Mansfield Advertising for the Invoices and thus Mansfield Advertising is likely to succeed on the merits of its Complaint.
2. Possibility of Irreparable Injury. Although Mansfield Advertising’s right to payment is indisputable, Mansfield Advertising may be prevented from obtaining a complete recovery by wasteful spending of Udren Law’s limited resources, for example, by maintaining excessive staff levels for the wind-down or by exercising improper preference in paying its debts. Moreover, the lack of transparency in Udren Law’s dealings with Mansfield Advertising highlights the need to monitor the wind-down to ensure that Udren Law’s resources are used to satisfy Udren Law’s obligations and not to enrich its shareholders or employees. Once these resources are disbursed beyond Udren Law’s control, it may be difficult, if not impossible, for Mansfield Advertising to recover them. Furthermore, Udren Law’s clients may be injured or prejudiced by Udren Law’s failure to obtain the affidavits of publication for which the firm has not remitted payment.

3. Inadequacy of Security. Mansfield Advertising has no security for Udren Law's obligations. Indeed, Udren Law and its clients have, for the most part, already obtained the benefit of Mansfield Advertising's services without paying for them.
4. Probability of Fraudulent Conduct. Although Mansfield Advertising is not aware of any fraudulent conduct having occurred, Udren Law's lack of transparency gives rise to concerns in this area and, moreover, to the possibility that fraudulent conduct will occur in the future if proper oversight is not present. It has been weeks since Mansfield contacted Udren Law and Udren has never responded.
5. Financial Position of Debtor. Udren Law has indicated its intent to wind-down and that its present resources are inadequate to satisfy its debt to Mansfield Advertising, which at almost \$140,000 is not even Udren Law's largest unpaid obligation.
6. Imminent Danger. Notwithstanding its significant obligations, Udren Law continues to operate, employing attorneys and staff whose compensation may be excessive under the circumstances of the wind-down. So too for other firm expenses, which, once paid, may be unable to be recovered for the benefit of Udren Law's creditors.
7. Inadequacy of Available Remedies and Lack of Less Drastic Remedy. In view of the inevitable march of time and the need to respect the interests of Udren Law's clients in the wind-down, there are no other remedies available to satisfy Mansfield Advertising's concerns. Moreover, appointing a receiver here is not a drastic remedy. Udren Law will still be able to wind-down, it will just need to do so with the benefit of appropriate oversight and supervision.
8. Likelihood that Receiver Will Do More Harm than Good. It is unlikely that a receiver will do more harm than good. The expense of the receiver should be appropriate under

the circumstances and the oversight and transparency brought on by the receiver's appointment will far outweigh such expense. Moreover, the objectivity of a third-party may be helpful in making the difficult personnel and other decisions necessary to ensure that the wind-down benefits Udren Law's creditors and clients.

CONCLUSION

For all of the foregoing reasons, Mansfield Advertising respectfully requests that this Court schedule an emergency hearing as soon as practicable and enter an order in the form proposed, appointing a receiver to oversee the wind-down of Udren Law.

Respectfully submitted,

By:


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EXHIBIT "A"

**IN THE UNITED STATES DISTRICT COURT
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Defendant.

Case No. 18-3569

DECLARATION OF MARK A. MANSFIELD

Pursuant to 28 U.S.C. §1746, I hereby declare as follows:

1. I am the President of William J. Mansfield, Inc. (“Mansfield Advertising”).
2. Mansfield Advertising has been providing legal advertising services since 1935.
3. Mansfield Advertising has been providing legal advertising services to Udren Law Offices, P.C. (“Udren Law”) for over twenty years.
4. In accordance with our longstanding relationship, Udren Law requested that Mansfield Advertising create and publish notices relating to mortgage foreclosure actions in which Udren Law was acting as counsel.
5. At present, Udren Law has 86 unpaid invoices totaling \$139,357.74.
6. For each of these unpaid invoices, Mansfield Advertising created and paid to publish mortgage foreclosure notices for which it has not been paid by Udren Law.
7. As Udren Law’s obligations to Mansfield Advertising grew, I contacted Udren Law to inquire about payment.

8. At first, Udren Law indicated that payment would be forthcoming, but later Udren Law disclosed its intent to wind-up its business, communicating uncertainty about when or if it would satisfy our invoices.

9. On August 10, 2018, in an effort to gain clarity about Udren Law's operations and to follow up on several unreturned phone calls, I visited Udren Law's headquarters in New Jersey.

10. Mark J. Udren, Esquire, principal of the firm, was said to be unavailable.

11. Lorraine Geist of Udren Law acknowledged the firm's obligations, but indicated that Udren Law could not provide a timetable for or guaranty of payment.

12. Mansfield Advertising is in possession of several affidavits of publication that are necessary to proceed with the related foreclosure actions being handled by Udren Law, but Mansfield Advertising has refused to deliver them in accordance with the terms of our invoices.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 28, 2018.


MARK A. MANSFIELD

IN THE UNITED STATES DISTRICT COURT
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WILLIAM J. MANSFIELD, INC.,

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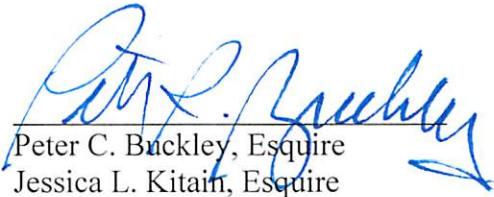
Case No. 18-3569

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Emergency Motion to Appoint a Receiver has been served via e-mail and hand delivery on the following:

Udren Law Offices, P.C.
111 Woodcrest Road
Cherry Hill, NJ 08003

Dated: August 29, 2018


Peter C. Buckley, Esquire
Jessica L. Kitain, Esquire