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Maine Manual  
on  
Professional  
Responsibility

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2007

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**Board of Overseers  
of the Bar**

**TOWER**  
 PUBLISHING

## **RULE 3**

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### **CODE OF PROFESSIONAL RESPONSIBILITY**

#### **3.1 Scope and Effect**

(a) This Code shall be binding upon attorneys as provided in Rule 1(a). Violation of these rules shall be deemed to constitute conduct “unworthy of an attorney” for purposes of 4 M.R.S. §851. Nothing in this Code is intended to limit or supersede any provision of law relating to the duties and obligations of attorneys or the consequences of a violation; and the prohibition of certain conduct in this Code is not to be interpreted as an approval of conduct not specifically mentioned.

(b) Although this Code is prospective in application, it may be considered as advisory by the Board of Overseers of the Bar and by the Grievance Commission in their disposition of disciplinary proceedings related to conduct occurring before its effective date.

#### **3.2 Admission, Disclosure and Misconduct**

##### **(a) Unauthorized Practice.**

(1) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of law or court rule.

(2) A lawyer shall not aid any person, association, or corporation in the unauthorized practice of law.

##### **(b) Misstatements on Admission.**

(1) In connection with a lawyer’s application for admission to the bar, a lawyer shall not make any statement which the lawyer knows or should know is false or misleading, nor shall the lawyer fail to disclose any fact or information which the lawyer knows or should know is material to such application.

(2) A lawyer shall not further the application for admission to the bar of another person known by the lawyer to be unqualified in respect to character, education, or other relevant attribute.

##### **(c) Judicial Officers.**

(1) A lawyer shall not make a false statement of fact, with knowledge that it is false or with reckless disregard as to its truth or falsity, concerning the qualifications or integrity of a judge or other adjudicatory officer in the court system or a candidate for election or appointment to office as a judge or other adjudicatory officer in the court system.

(2) A lawyer who is a candidate for appointment to judicial office or

**STATE OF MAINE**  
**SUPREME JUDICIAL COURT**  
**RULES FOR LAWYERS' FUND FOR CLIENT PROTECTION**

**Effective July 1,1997**

**Docket No. SJC-231**

**MAINE RULES FOR LAWYERS' FUND**  
**FOR CLIENT PROTECTION**

**RULE 1. PURPOSE AND SCOPE**

**(a) Purpose.** The purpose of the Lawyers Fund for Client Protection is to promote public confidence in the administration of justice and the integrity of the legal profession by making efforts toward reimbursement in whole or in part of losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of this State occurring in the course of lawyer-client or fiduciary relationship between the lawyer and the claimant.

**(b) Scope.** Every lawyer has an obligation to the public to participate in the collective effort of the bar to reimburse in whole or in part persons who have lost money or property as a result of the dishonest conduct of another lawyer. Contribution to the Lawyers' Fund for Client Protection is an acceptable method of meeting this obligation.

**RULE 2. ESTABLISHMENT**

**(a) Fund.** There is established the Maine Lawyers' Fund for Client Protection (hereinafter "the Fund") for the purpose of reimbursing in whole or in part claimants for losses caused by dishonest conduct committed by lawyers admitted to practice in this State.

**(b) Board of Trustees.** There is established, under the supervision of the Supreme Judicial Court, the Maine Lawyers' Fund for Client Protection Board of Trustees (hereinafter "the Trustees"), which shall receive, hold, and manage, all monies allocated to the Fund; process all claims against the Fund and make any disbursements from the Fund.

**BOARD REGULATION NO. 19**

*Publication of the Annual Report of the Board of Overseers of the Bar*

The Annual Report of the Board of Overseers of the Bar, after being approved by the Board, shall be forwarded to the justices of the Maine Supreme Court. The report shall also be distributed to the members of the Board's Grievance Commission, Fee Arbitration Commission and Professional Ethics Commission. A copy of the report shall also be forwarded to the Editor of the Maine Bar Journal and such other organizations as deemed appropriate by the Board or Bar Counsel.

Adopted: April 14, 1982  
Amended: November 16, 2000  
January 11, 2006

**BOARD REGULATION NO. 20**

*Bar Counsel Dissemination of Disciplinary Information*

1. When the Board or the Grievance Commission authorizes an information based primarily upon an attorney's misappropriation of a client's funds or properties, and Bar Counsel has reason to believe that other client(s) of the Respondent Attorney may have reason to be concerned over the status of their funds or other properties entrusted to or within reach of the Respondent Attorney, Bar Counsel may request the Board to authorize that the information filed with the Court also be sent to a newspaper of general circulation in the locale where the Respondent Attorney has his place of business.

2. Upon contact initially by a media person in any case in which any information has been filed, Bar Counsel may provide the following:

- a. The nature, substance or text of the allegations.
- b. Quotations from or reference to public records of the Court in the case including the Respondent Attorney's answer.
- c. The scheduling or result of any step in the judicial proceedings.

Adopted: October 12, 1982  
Amended: September 11, 1996

**THE PROFESSIONAL ETHICS COMMISSION  
OF THE  
BOARD OF OVERSEERS OF THE BAR**

**Question**

The Professional Ethics Commission has been asked by Bar Counsel for an opinion concerning whether two scenarios violate Maine Bar Rule 3.2(a) prohibiting the unauthorized practice of law.<sup>1</sup>

Scenario One:

Attorney A is admitted in State X. A seeks admission to the Maine bar. A described himself on his most recent application for admission to the Maine bar as “President and General Counsel of the A Group.” A has a website for the “A Group” that describes it as follows: “The A Group is a Maine based boutique litigation law firm” with offices in several states in the northeast region. Over 20 different practice areas are listed as the firm’s areas of concentration. These are not limited to federal practice areas. The website provides a primary address for the A Group in Maine and its only telephone number is a Maine number. The website contains an identifiable picture of a Maine coastal scene. The website also contains a brief personal description of A in which A explains that after practicing elsewhere, he returned to reside with his family in his home state of Maine. A describes his educational and employment background, states that he is admitted in State X, and describes himself as a member of the state bar associations in Maine and State X. His description is silent about his bar admission status in Maine. Only one other attorney is described as being a member of the firm, in an “of counsel” role. That other attorney is described as being admitted in two northeastern states’ jurisdictions. There is nothing on the website that in any way suggests that the other attorney is admitted in Maine.

Scenario Two:

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<sup>1</sup> M. Bar R. 3.2(a)(1) states that “[a] lawyer shall not practice law in a jurisdiction where to do so would be in violation of law or court rule. M. Bar R. 3.2(a)(2) prohibits a lawyer from aiding any person, association or corporation in the unauthorized practice of law.

## **PREAMBLE**

The Supreme Judicial Court recognizes that a wide range of influences can detrimentally affect the performance of a lawyer or judge. Prominent among such influences are the effects of chemical dependence or mental conditions that result from disease, disorder, trauma or other infirmity that impair the ability of a lawyer or judge to practice or serve. Lawyer or judge impairment is detrimental to the interests of clients, litigants, our legal system and the general public. The vast majority of states have responded to the issue of lawyer impairment by creating funded lawyer **assistance** programs as contemplated by this Rule, acknowledging the principle that every member of the bar has an obligation to the public to participate in an appropriate response to lawyer or judge impairment. The Court finds that the **Maine Assistance Program for Lawyers** is an appropriate method for addressing the issue of lawyer or judge impairment and that the program will promote the integrity of the legal profession and will thereby directly benefit the people of Maine.

## **RULE 1. ESTABLISHMENT OF MAINE ASSISTANCE PROGRAM FOR LAWYERS (MAP)**

**A. Establishment:** There is hereby established a state-wide lawyer assistance program to be known as Maine Assistance Program for Lawyers (or "MAP") which shall provide immediate and continuing help to lawyers and judges (hereinafter "Members of the legal profession") who suffer from the effects of chemical dependency or mental conditions that result from disease, disorder, trauma or other infirmity and that impair their ability to practice law or serve in a judicial capacity.

**B. Purpose:** MAP has three purposes:

(1) To protect the interests of clients and the general public from harm caused by impaired lawyers or judges;

(2) To assist impaired members of the legal profession to begin and continue recovery; and

(3) To educate the bench, the bar, and the public to the causes of and remedies for impairments affecting members of the legal profession.

**C. Funding and Administration:**

(1) MAP shall be funded from assessments made annually on members of the Bar of Maine. Every attorney required to register in accordance with the

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Volume II

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**Board of Overseers  
of the Bar**

**TOWER**  
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STATE OF MAINE

Kennebec, ss

Board of Overseers of the Bar  
Grievance Commission  
File No. 04-381

BOARD OF OVERSEERS OF THE BAR  
Petitioner

v.

REPORT OF FINDINGS  
OF PANEL E  
OF THE GRIEVANCE  
COMMISSION

ROBERT LEVINE, ESQ.  
of Rockland, Maine  
ME. Bar #347  
Respondent

On October 25, 2005, pursuant to due notice, Panel E of the Grievance Commission conducted a disciplinary hearing open to the public according to Maine Bar Rule 7.1(e)(2), concerning misconduct by the Respondent, Robert Levine, Esq. This disciplinary proceeding was commenced by the filing of a Petition by the Board of Overseers of the Bar on July 21, 2005. Attorney Levine filed an Answer to the Disciplinary Petition on August 26, 2005.

Present at the Disciplinary Hearing were Assistant Bar Counsel Aria eee, representing the Board and Attorney Robert Levine, represented by Karen Kingsley, Esq. The complainant, Steven Dunn was present, represented by Robert Rubin, Esq.

The Panel accepted comments from the parties and reviewed the proposed findings presented by the parties. The Panel then issued the following disposition:

**FINDINGS**

1. Respondent Robert Levine (Attorney Levine) of Rockland, County of Knox, State of Maine, was at all times relevant hereto an attorney duly admitted to and engaging in the practice of law in the State of Maine and subject to the Maine Bar Rules. Attorney Levine was admitted to the Maine Bar in 1974.

2. On or about December 15, 2004, Robert Rubin, Esq. on behalf of his client, Steven Dunn, filed a complaint with the Board against Attorney Levine.

STATE OF MAINE

SUPREME JUDICIAL COURT  
DOCKET NO. BAR-05-4

BOARD OF OVERSEERS OF THE BAR

v.

ORDER

EARLE S. TYLER JR., ESQ.  
of Bangor, Maine  
ME Bar #1745

This matter is before the Court to consider Attorney Earle S. Tyler Jr.'s voluntary resignation dated June 28, 2005, that has been tendered pursuant to M. Bar R. 7.3(g). Attorney Tyler's letter of resignation is supported by his Affidavit dated June 28, 2005. On July 22, 2005, the Board of Overseers of the Bar considered this matter and unanimously recommended that the Court accept Attorney Tyler's resignation from the Maine bar. Therefore, it is hereby ORDERED Pursuant to M. Bar R. 7.3(g)(3), Earle S. Tyler Jr.'s resignation from the Maine bar is accepted immediately.

As required by M. Bar R. 7.3(g)(3), Earle S. Tyler Jr.'s supporting Affidavit dated June 28, 2005 is hereby impounded, and shall not be available for inspection unless otherwise ordered by the Court. Should Earle S. Tyler Jr. seek reinstatement to the Maine bar, this Affidavit may then be made public without further Order of the Court. This Order is a matter of public record pursuant to M. Bar R. 7.3(g)(3).

Dated: October 14, 2005

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Warren M. Silver, Associate Justice  
Maine Supreme Judicial Court