

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV11-92

SAVINGS BANK OF MAINE,  
Plaintiff,

v.

ASSOCIATED GROCERS OF MAINE, INC.,  
Defendant,

and

CAMDEN NATIONAL BANK,  
Party in Interest.

**CONSENTED-TO**

**ORDER APPOINTING RECEIVER**

By agreement of Plaintiff and Defendant Associated Grocers of Maine, Inc. ("AGME"), and on the motion of Plaintiff Savings Bank of Maine ("SBM") for appointment of a receiver (the "Motion"), it is hereby **ORDERED** that James C. Ebbert of Aurora Management Partners, Inc., Rockland, Maine, is hereby appointed as Receiver *pendente lite* (the "Receiver"), subject to the following terms and conditions:

1. Powers. The Receiver is hereby authorized and empowered to do the following until further order of this Court:

a) To manage, protect and preserve the Collateral (meaning all the property securing the Note)<sup>1</sup> and, to the extent feasible, to wind up the business of Defendant AGME, and to collect all rents, income, revenues and profits therefrom and apply the same to the payment of all expenses and other charges of such receivership including, without limitation, the compensation and expenses of the Receiver, including fees and expenses of Receiver's counsel, and to the

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<sup>1</sup> All capitalized terms not expressly defined herein shall have the meanings ascribed to them by the Complaint and the Motion.

payment of the secured obligations of SBM, and to conduct an orderly shutdown of business operations until a sale or other disposition of such Collateral shall be finally made and consummated during the pendency of this action;

b) To examine and, as necessary, make copies of the records and accounts of AGME relating to the management of AGME's business and the Collateral, and report to the Court on the same during the pendency of this action;

c) To apply the revenues and profits received from the wind-up of the business, including, without limitation, the collection of accounts, in the following manner:

- i. Payment of the ordinary and necessary expenses of preserving the Collateral and the assets of AGME including, without limitation, the payment of taxes, materials, supplies, utilities, payroll, insurance premiums and other necessary expenses;
- ii. Payment of the costs, expenses and fees of the Receiver and attorneys for and agents of the Receiver; and
- iii. Payment of principal and interest and other sums owing to SBM on its Note;

d) To collect the revenues, profits, accounts receivable and all other obligations owing to AGME, to bring legal action, if necessary, in order to collect the same, and, on notice to SBM, to settle and compromise any of such accounts receivable, debts or obligations whenever the Receiver shall deem it advisable to do so, upon such terms and conditions as appear to it to be justifiable;

e) To negotiate and enter into contracts, to renegotiate and terminate contracts, to sell goods, hire and fire employees and do all things AGME could or would do in the course of winding up the business and, on notice to SBM, to compromise obligations owing to and by

AGME where it appears in the Receiver's best judgment to be in the best interest of preserving the Collateral and/or the assets entrusted to the Receiver;

f) To enter into contracts, incur and discharge obligations, and make expenditures from the available income and receipts of the business for labor, insurance, equipment, inventory and supplies currently required, and to pay expenses of all types related to the winding-up of the business of AGME;

g) To open one or more depository accounts, using AGME's tax identification number, at any federally insured depository institution, to withdraw funds from any other financial institution in which AGME may have deposited funds, and to deposit such funds in such accounts;

h) To exercise such rights as AGME may have under any permits or licenses held by AGME;

i) To pay the agents, attorneys and employees whom the Receiver hires or continues in employment such compensation for their services as the Receiver deems to be proper;

j) To pay all appropriate real estate taxes, personal property taxes, and any other taxes or assessments against the Collateral;

k) To expend reasonable sums in the preservation of and/or repair and maintenance of the Collateral in the possession of the Receiver which, in the best judgment of the Receiver, is necessary to preserve and maintain such property pending the outcome of this litigation and/or foreclosure of SBM's Mortgage, Security Agreement, Collateral, and/or security interests;

l) To borrow funds for purposes relating to the operations of the Receivership. The Receiver shall not borrow funds without first providing SBM, by advance written notice, a reasonable opportunity to advance funds required by the Receiver;

m) To cooperate with SBM in the foreclosure of SBM's Collateral, real, personal and intangible, and to assist SBM in the liquidation of those assets;

n) To require AGME and its principals to comply promptly and fully with the terms of this Order and to cooperate with the efforts of the Receiver, upon its reasonable request, to accomplish the orderly transition to the Receiver of the possession, control, preservation and management of AGME's property;

o) To investigate transfers made by AGME, including, without limitation, transfers to insiders, and concealment of any property;

p) To investigate the validity of any claims made against AGME;

q) To contest, protest, or appeal any ad valorem tax or assessment, real estate tax, personal property tax, or other tax or assessment pertaining to the Collateral; and

r) To do anything the Receiver reasonably deems necessary to perform the duties set forth above.

The Receiver shall have broad discretion to exercise its powers as it deems proper in its business judgment. The common law business judgment rule shall apply to all decisions made by the Receiver. The fact that the Receiver has the power to perform an act does not require the Receiver to perform that act if it is contrary to the Receiver's business judgment.

2. Compensation of Receiver.

a) Hourly Rate. The Receiver will be paid the sum of \$320.00 per hour for all Work (as set forth in detail in the “Receiver Agreement” attached to the Affidavit of Alvin S. Butler submitted in support of SBM’s Motion for Appointment of a Receiver) performed by James C. Ebbert.

b) Expenses. The Receiver will be reimbursed for all reasonable out-of-pocket expenses.

3. Termination of Receivership

a) Termination on Dismissal. If the parties stipulate to the dismissal of this civil action, or if this civil action is otherwise dismissed, then the Court will retain limited jurisdiction to allow the Court to approve the Receiver’s Report (as defined below).

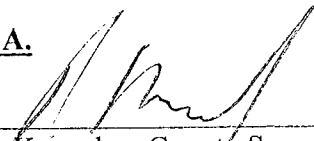
4. Final Accounting

a) Within 60 business days after termination of the Receivership or the Receiver for any reason other than the bankruptcy of AGME (hereafter “Termination”), Receiver shall deliver to the Court a report and accounting (the “Receiver’s Report”) detailing its activities and accounting for money received, money expended, the Receiver’s fees and the Receiver’s expenses.


b) When the Receiver is finally discharged, all actions it has taken will be automatically ratified by the Court unless a party proves prior to the discharge of the Receiver that those actions violated the business-judgment rule.

9. Independent Contractor. The Receiver is an independent contractor and shall not be deemed an employee of SBM or AGME. The Receiver shall operate under an Agreement substantially in the form attached hereto as Exhibit A.

DATED: 4/27, 2011

  
Justice, Kennebec County Superior Court

A true copy  
ATTEST:

  
Michele Lumbert  
Clerk of Courts