

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
20<sup>TH</sup> JUDICIAL DISTRICT  
AT NASHVILLE  
PART III

FILED

2019 FEB 15 AM 10:33

CLERK OF COURT  
DAVIDSON CO. CHANCERY CT.

STATE OF TENNESSEE, )  
*ex rel.* JULIE MIX MCPEAK, solely in her )  
official capacity as Commissioner of )  
Commerce & Insurance, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GALILEE MEMORIAL GARDENS, )  
JM&M SERVICES, INC., )  
LAMBERT MEMORIAL CO., aka )  
LAMBERT MEMORIALS, INC. )  
LAMBERT & SONS, INC. )  
JEMAR LAMBERT, MARJE LAMBERT, )  
and MARY H. LAMBERT, and ALL )  
PERSONS ACTING IN CONCERT )  
WITH THEM, )  
 )  
Defendants. )

No. 14-102-II(III)

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RECEIVER'S MOTION TO SET HEARING DATE ON MATTERS FOR RESOLUTION –  
TO DISSOLVE CORPORATION AND ALL BUSINESS ENTITIES IN RECEIVERSHIP; TO  
GRANT EXCLUSIVE TITLE TO THE RECEIVER OF THE ORIGINAL CEMETERY  
PARCEL; TO PERMANENTLY ENJOIN DEFENDANTS FROM THE GALILEE  
CEMETERY BUSINESS; TO DETERMINE OR BAR CLAIM OF DEFENDANTS

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Julie Mix McPeak, Commissioner of the Department of Commerce & Insurance, in her official capacity as Receiver of Galilee Memorial Gardens (and JM&M Services, Inc., Lambert Memorial Co., Lambert Memorials, Inc., and Lambert & Sons, Inc., the related entities through which it conducts its business), through her appointed Special Deputy Receiver, Receivership Management, Inc., hereby files this summary of items and issues to be resolved concerning the corporate entity or entities, land holdings and matters that could be resolved solely between the

Commissioner, as Petitioner and Receiver, and the Defendants. [This listing responding to this Court's order following status conference of 12-14-2018 (Notice Dated January 7, 2019) does not concern the matters for resolution through a separate hearing regarding the future status of the cemetery, such as the matters of burials, requests for disinterment, and future maintenance of the cemetery after receivership by the Commissioner.]

1. This motion is chiefly directed to the Lambert-associated Defendants (all Defendants named besides "Galilee Memorial Gardens". The name Galilee Memorial Gardens belongs to the cemetery ground at 8283 Ellis Road, Bartlett, Tennessee, and was used by those conducting its business whether under the Lambert family or their predecessors, and this motion may assist wind-down of the receivership. The topics are important steps required to end this receivership case because Defendants' remaining property rights in the cemetery land and assets of its former business need to be determined and finally resolved. Certain orders entered *before* other plans for the cemetery's future are determined might yield benefits of flexibility or simplification if the named Defendants can be removed from further cognizable interest in the case.

2. It is unknown whether the named Defendants who are individual persons, in particular Mary H. Lambert, Jemar Lambert, or Marje Lambert, would oppose these rulings. Originally, besides these individuals, the Defendants who appeared in this case under their former counsel identified themselves as Galilee Memorial Gardens, JM&M Services, Inc., and Lambert Memorial Company. They stated in response to the initial petition that JM&M Services, Inc., referred in the response as the "Company," was formed to assume control over Galilee from Lambert & Sons, Inc., (LSI) an entity formed by Jesse Lambert, who died in 2010, and that LSI acquired Galilee in 1993. (Page 5 of Defendants' Response and Limited Objection to Application

for Restraining Order and Temporary Injunction, and Order to Show Cause Setting Hearing on Petition for Appointment of Commissioner as Receiver for Galilee etc. dated Feb. 10, 2014). Lambert Memorial Company was identified by their filings as the name for the stone monument business located at the cemetery.

3. The cemetery land and all business entities doing business as and for Galilee Memorial Gardens were placed in receivership. From their initial filing, the Defendants agreed at least that the entities connected with Galilee Memorial Gardens are: JM&M Services, Inc., described as the successor to Lambert & Sons, Inc., and Lambert Memorial Company. These characterizations may or may not fully align with the corporate records or the names associated with the businesses, and the status may not ultimately be capable of more precision. The Receiver is prepared to offer evidence regarding the status of the corporation and about former corporations so that they can be brought to an appropriate resolution.

4. The Receiver has not treated the businesses placed within the receivership as capable of meaningful distinction or separation from each other, nor have material assets or accounts been found with money relating to the businesses conducted at the cemetery premises. (*See* Third Interim Report of the Deputy Receiver, filed December 11, 2014). The remaining personal property in the form of stone monument business inventory and equipment at the cemetery has previously been ordered sold and disposed of, and because the stone business finances were intertwined with those of the cemetery, the proceeds were to be applied to the costs of the receivership. *See* Receiver's Motion to Dispose of Stone Markers and Equipment on the Cemetery Premises, and Order thereon, in March-April 2018.

5. This motion to set hearing on these topics can be used to elicit whether the Defendants oppose the various orders that could finally resolve and sever their remaining ties or

interests in the Galilee Memorial Gardens cemetery permanently. The questions presented, for which a setting for hearings and proof are sought, are:

A. Dissolution of the Corporation: Whether JM&M Services, Inc., the Tennessee corporation, should be ordered dissolved and its charter terminated, and notice of that fact and attendant consequences provided to the public. Out of all the names that Galilee's business appeared to be using in some capacity or contexts when the receivership was filed, only JM&M Services, Inc., f/k/a Lambert & Son, Inc., was formed as a corporation by the Individual Defendants Jemar, Marje and Mary Lambert, since the death of Jesse Lambert for their specific stated purpose to own and operate the cemetery, and only that corporation was active at the Secretary of State's Office at the time this case began.

B. Dissolution of the Other Business Entities: Similarly, whether Lambert Memorial Company, or Lambert Memorials, Inc. or Lambert & Sons, Inc. are separate corporations that need to be dissolved, or whether in whatever form these businesses may exist, they should just be declared concluded, and any notice of that fact provided to the public.

C. Permanent Injunction Against Doing Business of Galilee Memorial Gardens: Concurrent with dissolution of all their businesses associated with Galilee Memorial Gardens, whether the individual Lambert Defendants, should be barred permanently from operation or doing business of the cemetery Galilee Memorial Gardens. This would convert the still relevant provisions of the temporary injunction entered in connection with the Order of Receivership on Feb. 21, 2014, into a permanent order.

D. Deed of Original Cemetery Land to be Granted to Receiver: Whether, in contemplation of any future transfer of the whole cemetery ground by the Receiver under Court

order to future caretaker owners, the Court should now declare the original 8.95 acre cemetery parcel that had been owned by one or more of Defendants, to be judicially deeded or quitclaimed by the Defendants, through judicial order, exclusively to Julie Mix McPeak, Commissioner of Commerce & Insurance in her capacity as receiver for Galilee Memorial Gardens Cemetery in this case, so that the Order may be recorded with the Shelby County Register of Deeds. This conveyance is intended to match the capacity in which the Commissioner holds the *expansion parcel* for the cemetery which in 2015 was conveyed by the adjoining landowners. These deeds will be shown to the Court, and any other materials thought relevant to the current chain of title for the cemetery property to allow for a proper description in the order.

JM&M Services, Inc. may indeed have become the owner of this real property as asserted by Defendants, but the dissolution of JM&M Services, Inc. and history of title may require a full-fledged transference from the owners of JM&M Services, Inc., who were the individual Lambert Defendants, as well as any interest held by any of the Defendants, to the Receiver. Sale of the whole cemetery, assets of the cemetery company in receivership, is authorized by the Cemetery act at Tenn. Code Ann. Title 46 by a receiver to remedy deficiencies in trust accounts that cannot be restored through operations (e.g. Tenn. Code Ann. §§ 46-1-312(d), 46-1-307(b), and 46-1-309). In an instance where the cemetery real estate has no marketable commercial value, and where the cemetery companies to be dissolved have no distributable assets, the Receiver submits it should not be required to *sell* the cemetery real estate to accomplish clear-cut removal of the cemetery company or former owners from its title or beneficial ownership.

E. No Monetary Claim of Defendants on Receivership: Whether in connection with these types of relief, the individual Lambert Defendants should be determined to be left with no possible monetary claim against the businesses being dissolved in receivership, as it is clear they

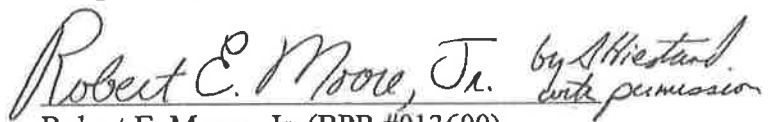
would have no distribution rights whatsoever out of the receivership superior to the priorities expressed by the Cemetery Act in favor of restoring deficient trusts of the cemetery, and attempting to satisfy outstanding business obligations of the cemetery business. As by every measure this receivership has no distributable assets, the former owners of the cemetery business, (even without regard to any claims *against* them), simply will never have a claim to be paid out of this estate.

WHEREFORE, the Receiver requests and moves:

1. For the Court to specially set hearing on all of the matters described in Paragraphs 5. A. through E. above, after the Lambert Defendants have had an opportunity to identify, in response to this Motion to Set, whether they oppose entry of these potential orders, whether they would stipulate to, or not object to entry of any of those orders, or whether they intend to contest them, thereby requiring full contested hearing.

2. At the hearing on this Motion to Set, the Receiver will be prepared to discuss the extent or nature of proofs that would be required for the items designated for determination, in light of any objection that may have been made.

Respectfully submitted,



Robert E. Moore, Jr. (BPR #013600)

President

Receivership Management, Inc.

Special Deputy Receiver

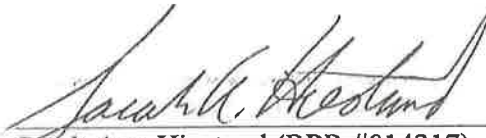
Galilee Memorial Gardens

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Counsel to the Commissioner/Petitioner, and as  
Receiver of Galilee Memorial Gardens  
cemetery

### NOTICE OF HEARING

Pursuant to Local Rule § 26, **NOTICE** is hereby given that Petitioner will present the above-referenced Motion for a hearing in Part III of the Chancery Court of Davidson County, Tennessee, at the Metro Courthouse in Nashville, Tennessee at **9:00 AM Central Time on Friday, ~~March 22, 2019.~~ March 1, 2019 (rescheduled by the Court)**

**NOTICE is hereby further given that a failure to file and personally serve a written response opposing or otherwise responding to Petitioner's Motion within the time requirements established by Twentieth Judicial District Local Rule § 26.04 (by close of business on the Monday before the Friday on which the motion is to be heard) may result in the Motion being granted by the Court without further hearing.**

### CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Receiver's Motion to Set Hearing Date on Matters for Resolution – to Dissolve Corporation and all Business Entities in Receivership, to Grant Exclusive Title to the Receiver etc. has been mailed First Class Postage prepaid to the following interested parties and attorneys requesting notice and transmitted via email this 15<sup>th</sup> day of February 2019:

Jemar Lambert  
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Individual Defendants in Receivership case, pro se

Jef Feibelman  
Burch, Porter, and Johnson  
130 North Court Avenue  
Memphis, TN 38103(901) 524-5109; fax 901-524-5024  
Special Counsel to the Receiver

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Courtesy Copy to:

Emily Walker, CTFA, VP & Trust Officer  
Commercial Bank & Trust Company  
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P.O. Box 1090  
Paris, TN 38242  
Via email to [Ewalker@cbtnet.com](mailto:Ewalker@cbtnet.com)  
Trustee of Trusts for Galilee Memorial Gardens

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Courtesy copy to:

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Defense Liaison for Funeral Homes in Shelby County Class cases

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SARAH ANN HIESTAND