

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

FILED
2019 NOV -8 AM 11:29

CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

D.C. & M.

STATE OF TENNESSEE,)
ex rel. HODGEN MAINDA, solely in his)
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-III

RECEIVER'S RESPONSE TO SHELBY COUNTY MOTION TO INTERVENE, WITH
SUPPLEMENTAL STATEMENT OF FINAL MATTERS FOR DETERMINATION
CONCERNING GALILEE MEMORIAL GARDENS

Hodgen Mainda, Commissioner of the Department of Commerce & Insurance,¹ as Receiver in his official capacity for Galilee Memorial Gardens (the "Cemetery"), through his appointed Special Deputy Receiver, Receivership Management, Inc., ("RMI") hereby files this response to

¹ Pursuant to Tenn. R. Civ. Pro. 25.04, when an officer of the State in the officer's official capacity ceases to hold office, the officer's successor is automatically substituted as a party, and proceedings following the substitution shall be in the name of the substituted party. Accordingly, the caption has been amended. Commissioner Hodgen Mainda has been in office since October 1, 2019.

the Motion to Intervene by Shelby County in this matter, set for hearing at the same time as the status conference to be heard November 15, 2019.

MOTION TO INTERVENE

Shelby County, Tennessee, through its counsel, has filed a Motion in this action asking that it be allowed to Intervene as an interested party. In its Motion and accompanying Memorandum, Shelby County makes certain statements and assertions about the status of the Receivership and the duties and obligations of the State of Tennessee and the Commissioner of the Department of Commerce & Insurance as receiver of Galilee Memorial Gardens. While the Commissioner as Receiver does not concur with all of those assertions as made by Shelby County, the Commissioner as Receiver does not object to the intervention of Shelby County, Tennessee as a party to participate in these proceedings. Therefore, the Commissioner as Receiver has no objection to the Court allowing Shelby County, Tennessee to intervene in this action and participate as a party.

SUPPLEMENTAL STATEMENT OF PENDING ISSUES

In order to aid the Court and the parties at the Status Conference scheduled in this case on Friday, November 15, the Commissioner as Receiver also submits this Supplemental Statement of issues which the Receiver believes need to be finally resolved incident to the termination of the winding down of the Galilee receivership. Major issues or items that remain to be finally determined or adjudicated by the Court in this matter include:

A) Order affirming the Court's earlier statement that the Cemetery is full, has no remaining useful grave spaces and should be closed to any future burials.

B) Order affirming that there are no assets available to compensate claimants including any aggrieved person who purchased a grave site, a pre-need cemetery contract or other services at Galilee Memorial Gardens or any of the Defendants.

C) Order foreclosing any rights that any such aggrieved persons may have against the grounds or other physical assets of Galilee Memorial Gardens and any of the Defendants.

D) Order confirming that the small amount of funds (approximately \$3000.00) currently in the Preneed Merchandise and Services Trust Fund is insufficient to make any meaningful restitution to anyone who may have purchased a pre-need services contract and foreclosing any such person from making a claim against that trust fund.

E) Order providing that the Preneed Merchandise and Services Trust fund, due to its small size, no longer serves the purpose for which it was created, and should be terminated with the assets in that Trust Fund deposited into the Improvement Care Trust Fund (ICTF) for the Cemetery.

F) Order recognizing that the deplorable state of the burial records at the Cemetery makes it impossible to know where any one person is buried, and further makes it impossible to know the identity of any other person or persons who might be buried in close proximity to any grave site.

G) Order that prohibits any disinterments (exhumations) from the Cemetery because it is impossible to give proper notice to the family or next-of-kin of other persons whose burial might be disturbed or affected by any attempted exhumation.

H) Order defining what kind of Notice is to be given, what form it will take and when it must be given to any and all potentially affected persons or entities prior to the Court's final adjudication of these issues.

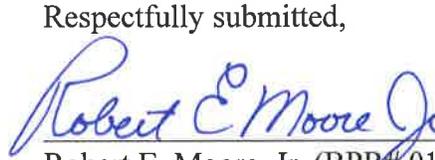
I) Since at this time no group or entity has been identified to accept ownership or responsibility of maintenance and oversight of the Cemetery, absent such a group or entity being identified, an Order reflecting that fact be entered.

J) If an appropriate group or entity is willing to accept ownership or the responsibility of the maintenance and oversight of the Cemetery prior to the termination of the receivership, an Order containing the terms providing for transfer of ownership or responsibility for maintenance and oversight of the Cemetery and such other provisions as are necessary.

K) If an appropriate group or entity cannot be found to accept responsibility of upkeep of Galilee Memorial Gardens, an Order ending the Receivership and defining the status of the cemetery grounds.

The Commissioner as Receiver presents this Supplemental Statement in order to assist the Court in formulating a pathway to terminating this receivership.

Respectfully submitted,

 by Sarah Winstead
with express permission

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

President

Receivership Management, Inc.

Special Deputy Receiver

Galilee Memorial Gardens

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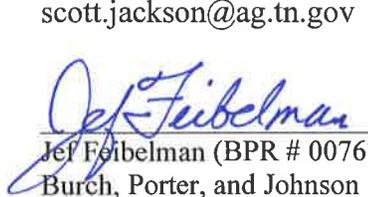
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Receiver's Response has been mailed First Class Postage prepaid to the following interested persons and attorneys requesting notice and transmitted via email if indicated this 8th day of November, 2019:

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