

**IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
TWENTIETH JUDICIAL DISTRICT  
AT NASHVILLE  
PART III**

STATE OF TENNESSEE, *ex rel.* )  
HODGEN MAINDA, solely in his )  
official capacity as Commissioner of )  
Commerce & Insurance, )

Plaintiff, )

vs. )

No. 14-102-II(III)

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. )

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**SHELBY COUNTY’S RESPONSE TO THE COMMISSIONER’S MOTION TO  
TERMINATE THE RECEIVERSHIP OF GALILEE GARDENS  
AND FOR OTHER RELIEF**

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Shelby County files its Response to the Commissioner’s Motion to Terminate the Receivership of Galilee Memorial Gardens and For Other Relief and would state as follows:

**I. Introduction**

The Court is familiar with the sad and tragic history of Galilee Memorial Gardens Cemetery (the “Cemetery”). Now this Court is faced with the difficult task of deciding its future. Unfortunately, no matter what action the Court takes, the Cemetery’s ultimate future will remain unknown.

## **II. Shelby County Does not Object, but Raises Two Issues**

As an initial matter, Shelby County does not object to the Receiver's plan for terminating the Receivership. The Receiver's termination plan appears to be the best option under these unique circumstances. Notwithstanding its lack of objection, Shelby County feels duty bound to point out two potential issues with this plan.

## **III. The ICTF Fund**

The first issue is that there are inadequate funds in the ICTF to maintain the Cemetery into perpetuity. The Commissioner advocates that the Trustee be authorized to retain and pay Red and Blue, LLC ("Red and Blue") to maintain the Cemetery as outlined in Red and Blue's proposal in Attachment 3. Even under the Commissioner's plan, however, within eight to fifteen years the Trust funds available to pay Red and Blue to maintain the Cemetery will be dissipated to the point that there will not be adequate funds to continue to pay Red and Blue its maintenance fees. At that point in time, the ICTF will no longer have adequate revenue to pay to maintain the Cemetery. So, at best, the Commissioner's plan for the continued maintenance of the Cemetery is temporary.

## **IV. Title to the Cemetery**

The other issue is title to the Cemetery. In the Commissioner's Memorandum he argues that once title is divested from the Receiver, "that title would revert to the condition that it was in prior to the Court's June 12, 2019 Order granting Title to the Commissioner as Receiver." (February 28, 2020 *Memorandum of Law in Support of Commissioner's Motion to Terminate Receivership of Galilee Memorial Gardens and Other Relief*, p. 12.) The Commissioner admits that once he is divested of "his *custodia legis* title, the state of the title to the Cemetery grounds is, at best, unclear." (*Id.* at p. 13.) This is not correct.

Title cannot revert to the condition it was in before the Court's June 12, 2019 Order. That is so because in its Order the Court divested ownership from all other parties who could have claimed an interest in the Cemetery property. (June 12, 2019 Order, p. 79, ¶ 8, "it is ORDERED BY THE COURT that all rights, title to and interest in the 8.95 acre parcel which originally made up the grounds of Galilee Memorials, Inc and/or Jesse Lambert (deceased), Jemar Lambert, Marje Lambert and/or Mary H. Lambert or any other Lambert Entity to Julie Mix McPeak, Commissioner of Commerce & Insurance, or her successors in office, in her capacity as receiver for Galilee Memorial Gardens Cemetery . . .".)

In addition, in the Commissioner's Memorandum, he specifically "asks that the injunction be clarified to also expressly bar [the Defendants] from ever asserting in the future any title or ownership rights to the grounds that make up the cemetery." (February 28, 2020 *Memorandum of Law in Support of Commissioner's Motion to Terminate Receivership of Galilee Memorial Gardens and Other Relief*, p. 13.)

Thus, under the Commissioner's proposal no party would have an ownership interest in the property. Under this circumstance, however, title to the Cemetery would escheat to the State, by operation of law, once title is divested from the Commissioner as Receiver. *See Escheat*, Black's Law Dictionary (11th ed. 2019); *see also e.g. State v. Goldberg's Unknown Heirs*, 113 Tenn. 298, 86 S.W. 717, 718–19 (1904); *Hinkle's Lessee v. Shadden*, 32 Tenn. 46 (1852).

### **Conclusion**

While Shelby County does not object to the Commissioner's plan to terminate the Receivership, it respectfully requests that this Court address the issue of maintaining the Cemetery in perpetuity and vest title in the State, although, not in the Commissioner as Receiver.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing has been mailed First Class postage prepaid to the following interested persons and attorneys requesting notice and transmitted via email if indicated this 6th day of March, 2020:

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Person requesting notice of proceedings

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