

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

FILED
 2019 SEP 27 AM 10:17
 DAVIDSON CO. CHANCERY CT
 D.C. & M

STATE OF TENNESSEE,)
ex rel. CARTER LAWRENCE, solely in his)
 official capacity as Interim 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 9/6/19 ORDER
 TO IDENTIFY FINAL MATTERS FOR DETERMINATION ON
 GALILEE MEMORIAL GARDENS

1. Carter Lawrence, Interim 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”)

¹ Since June 14, 2019, Deputy Commissioner Carter Lawrence has served as the Governor-appointed Interim Commissioner of the Department of Commerce and Insurance replacing Commissioner Julie Mix McPeak. 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. Further, as Interim Commissioner, Carter Lawrence now holds the position of statutory Receiver of the Cemetery under Tenn. Code Ann. § 46-1-312 pursuant to this Court’s prior order of February 21, 2014. A permanent Commissioner, Hodgen Mainda, has been announced by the Governor, and is expected to take office on October 1, 2019.

hereby files this response as directed by the Court's order of September 6, 2019 to identify whether the *only* matter remaining to be determined to wind up and close the Receivership is the future maintenance and upkeep of the cemetery and the interface and application of Galilee's Improvement Care Trust Fund (ICTF) and local government maintenance under Tenn. Code Ann. § 46-2-107.

2. The matters spelled out by the Court are weighty, and, depending on the options available to the Receiver, may include substantially all those determinations required from this Court to enable a local government's assuming the future maintenance and possession of the cemetery property. To the extent not included in the future maintenance and upkeep, the conditions and guidelines that would accompany the cemetery's appropriate future use should be established by the Court's order.

3. The Receiver, through Department representatives and counsel, is engaged in preliminary discussions and meeting with Shelby County officials to develop a potential acceptable proposal for the County to assume the controlling role over and in relation to the Cemetery property, and to establish its relation to the Cemetery ICTF or any uses of that fund. What items from this Court are needed to assist in that proposal, or to be rendered at a later stage, have not yet been determined. More time is required to pursue this prospect and develop any proposal for purpose of a filing with this Court and with their own authorizing bodies.

4. The Department entered into conversations with leadership from the Shelby County Mayor's Office in May, 2019. The focus of these conversations was to discuss the transfer of the Cemetery to Shelby County along with an explanation of the proceedings and the status of the receivership. These discussions are ongoing. However, there has been a delay in the discussions as the Mayor's Office leadership team then engaged changed in June. Since then,

the Department has had to re-engage with a new team. The Department has another meeting scheduled with the Mayor's office on October 3 and hopes to thereafter have some direction as to the willingness of the county to work with the State in transferring the Cemetery.

5. Because of the ongoing nature of these discussions, it is premature to make definitive representations to this Court at this time. The Receiver believes a status/scheduling conference with the Court to be set in latter October, could be conducive to mapping out the Court's intended orderly presentation and resolution of all remaining issues.

6. The Receiver's recommendations as to the permanent use of the Cemetery continue to be those outlined for the April 23, 2019 hearing: that burials not occur anymore, and that dis-interments be barred. Approving the Receiver's recommendations may be required to allow any change of ownership to the Shelby County government, as may be under discussion.

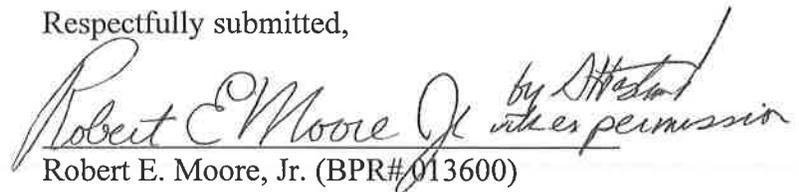
7. The current limited operations, that in May, 2019, were ordered by this Court to establish the limited visitation schedule and conditions, may be viable or potentially changed for the use of the cemetery after receivership. There are occasional requirements beyond routine lawn mowing, such as trees and surface conditions that must be addressed, that add somewhat to the expense.

8. Custody of Digital Records of the cemetery, and such physical-paper records as should be permanently maintained, if any, will be anticipated to be transferred to a responsible governmental agency. Because items like markers may still potentially need to be placed in likely locations, and need to be updated/recorded, there should be a central custodian. Other copies of the receiver's record, such as have been made available online, could be turned over to specific entities, such as the public library in Bartlett and Memphis.

9. Certain other orders will be needed ultimately to achieve a discharge of the receiver. The transfer of the cemetery property will be required to divest the Receiver's current sole title and possession and vest it in the new custodian or owner. The Receiver would bring those to the court's attention on an as-need basis.

10. When the permanent Commissioner takes office, there may be a benefit to an order recognizing his formal substitution as Receiver, even though as a matter of law, the substitution is automatic.

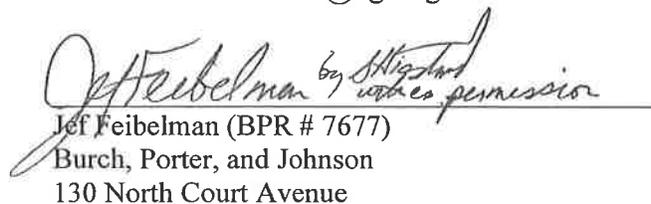
Respectfully submitted,

 *by Hiestand with es permission*

Robert E. Moore, Jr. (BPR#013600)
President
Receivership Management, Inc.
Special Deputy Receiver
Galilee Memorial Gardens
510 Hospital Drive, Suite 490
Madison, TN 37115
(615) 370-0051 (phone); (615) 373-4336 (fax)
email: rmoore@receivermgmt.com



Sarah Ann Hiestand (BPR #014217)
Senior Assistant Attorney General
Financial Division
C. Scott Jackson, (BPR #011005)
Deputy Attorney General, Financial Division
P.O. Box 20207
Nashville, TN 37202
(615) 741-6035; fax (615) 532-8223
email: sarah.hiestand@ag.tn.gov

 *by Hiestand with es permission*

Jeff Feibelman (BPR # 7677)
Burch, Porter, and Johnson
130 North Court Avenue

Memphis, TN 38103
(901) 524-5109; fax 901-524-5024
e-mail: jfeibelman@BPJLAW.com
Special Counsel to the Receiver

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Receiver's Response to Order of September 6, 2019 on Matters for Determination on Galilee Memorial Gardens has been mailed First Class Postage prepaid to the following interested persons and attorneys requesting notice and transmitted via email if indicated this 21th day of September, 2019:

Jemar Lambert
3174 Ruby Cove
Memphis, TN 38111

Marje Lambert
3174 Ruby Cove
Memphis, TN 38111

Mary H. Lambert
3174 Ruby Cove
Memphis, TN 38111

Individual Defendants in Receivership case, pro se

Handel R. Durham, Jr.
Jonathan Mosley
22 North Front Street, Ste. 760
Memphis, TN 38103
ph: 901.543.0866 fax: 901.543.0865
Via email to hdurham@durhamslaw.com; jonathan.mosley@jtmosleylaw.com

Coleman Garrett
295 Washington Av, Suite 2
Memphis, TN 38103
Via email to cwgarrett@bellsouth.net

Counsel for Lamberts in Shelby County cases

Courtesy Copy to:

Emily Walker, CTFA, VP & Trust Officer
Commercial Bank & Trust Company
Trust Division

P.O. Box 1090
Paris, TN 38242
Via email to Ewalker@cbtnet.com
Trustee of Trusts for Galilee Memorial Gardens

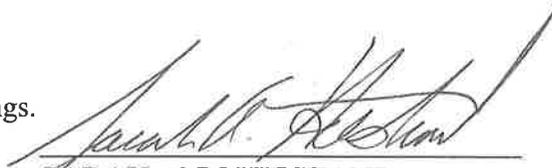
Kathryn E. Barnett
MORGAN & MORGAN-NASHVILLE, PLLC
810 Broadway Suite 105
Nashville, TN 37203
Phone: (615) 490-0943
Via email to kbarnett@forthepeople.com

Howard B. Manis
THE COCHRAN FIRM
One Commerce Square
40 South Main Ste. 1700
Memphis, TN 38103
Phone: (901) 523-1222
Via email to hmanis@cochranfirmidsouth.com

Class Counsel (Plaintiffs *Wofford* case-Shelby County)

John R. Branson
Jacob A. Dickerson
Baker, Donelson, Bearman, Caldwell & Berkowitz
First Tennessee Building
165 Madison Avenue, Suite 2000
Memphis, TN 38103
(901) 526-2000
Via email to jbranson@bakerdonelson.com
Defense Liaison for Funeral Homes in Shelby County Class cases

Brent M. Hays, Esq.
MerrittWebb
315 Centerview Drive, Suite 263,
Brentwood, TN 37027
Person requesting notice of proceedings.



SARAH ANN HIESTAND