

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

FILED
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 CLERK OF THE COURT
 DAVIDSON CO. CHANCERY CT
 D.C. & M

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

THIRD INTERIM REPORT OF THE SPECIAL DEPUTY RECEIVER
 FOR GALILEE MEMORIAL GARDENS

Pursuant to the Order Appointing Commissioner as Receiver for Galilee Memorial Gardens Cemetery and Granting Temporary Injunction (the "Order") entered by this Court on February 21, 2014, Julie Mix McPeak, Commissioner of the Department of Commerce & Insurance, as Receiver for Galilee Memorial Gardens (the "Cemetery"), through her appointed Special Deputy Receiver, David Kustoff, respectfully submits this Third Interim Report regarding the status of the receivership:

1. Since entry of the Order the Special Deputy Receiver has engaged in efforts to determine the assets and financial condition of the Cemetery, including a review of all existing records of the Cemetery, attempts to interview its owners as described below and numerous visits to the Cemetery site. The Special Deputy Receiver issued subpoenas to fifteen (15) financial institutions in Shelby County, Tennessee, requiring them to provide financial information concerning entities related to the Cemetery or the individuals operating these entities. Those to whom subpoenas were issued included, among others, all of the major financial institutions in the vicinity and any financial institution which the Deputy Receiver had reason to believe had any relationship with the Cemetery or its owners. The Special Deputy Receiver has performed a thorough review of the records provided in response to these subpoenas. The account balances in these institutions were negligible, if any, and are reflected in Exhibit A to this Report.
2. The Special Deputy Receiver has sought to take the depositions of the owner operators of the Cemetery, Jemar Lambert and Marje Lambert, to determine the source of any assets as well as other information concerning the operation of the Cemetery. Both individuals refused to cooperate, asserting their Fifth Amendment privilege. However, the Special Deputy Receiver has no reason to believe that the depositions

of these individuals would reveal any additional Cemetery assets or that they, personally, have substantial assets. The financial records reviewed by the Deputy Receiver and the fact that Jemar Lambert remained in jail for a number of months without making bond suggest that there are no personal assets.

3. By statute, the expenses of the receivership as well as operations of the Cemetery should be paid out of the funds and assets of the Cemetery, Tenn. Code Ann. § 46-1-312(a)(6), but such has not been possible for Galilee. Accordingly, the Special Deputy Receiver, special counsel and expenditures for Cemetery maintenance have been paid from the Cemetery Consumer Protection Account (the "Account"), created by Tenn. Code Ann. § 46-1-105. The total cost of the receivership as of October 31, 2014 is \$145,730.35. Of these costs, \$15,800.00 has been for the mowing and trimming of the Cemetery. The portion of the Department's Cemetery Consumer Protection Account set aside to fund receivership actions has been depleted by more than thirty percent (30%) from a balance of \$364,328.18 on February 28, 2014, to \$248,638.74 as of September 30, 2014. This Account is not a viable source of long-term funding for the operations of the Cemetery.
4. The Trustee reported the balance of the Merchandise and Services Account of the Cemetery (maintained under Tenn. Code Ann. § 46-1-206 and -207) as of December 31, 2013 to be \$2,914.17. This account is

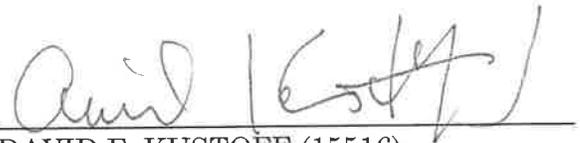
for the purpose of purchasing merchandise and services for burials that were purchased pre-need¹. However, over one hundred fifty (150) persons have identified themselves as purchasers of pre-need burials and thus the negligible amount held in the Merchandise and Services Account will not be nearly sufficient.

5. Other than the small account balances reflected in Exhibit A, the only assets of Galilee found by the Special Deputy Receiver is a Dodge Ram 3500 flatbed truck, which has not been maintained and has insubstantial value, and stone suitable for cemetery monuments which the Special Deputy Receiver has been advised by a knowledgeable source has a value of no more than One Thousand Five Hundred (\$1,500) Dollars.
6. Commercial Bank & Trust (the "Trustee") reported the balance of the Improvement Care Trust Account of the Cemetery (maintained under Tenn. Code Ann. § 46-1-204) as of December 31, 2013 to be \$425,473.72. The net earnings or interest on this account is available solely for the perpetual care of the Cemetery and, as such, does not constitute a source of funding for the Receivership nor for the rehabilitation of the Cemetery.

¹ Contracts for the sale of merchandise or services are controlled by Tenn. Code Ann. § 46-1-206. Trusting is generally required if delivery of the merchandise or rendering of services is to be made more than sixty (60) days in the future or, even if merchandise was to be delivered or services rendered within sixty (60) days, that no such delivery actually occurs within one hundred twenty (120) days of the receipt of any payment.

7. The Special Deputy Receiver will continue his efforts to determine the financial assets of the Cemetery but it his belief that further efforts to discover additional assets of the Cemetery will, in all likelihood, not be productive. At this time, the Deputy Receiver advises the Court that in his opinion the Cemetery lacks any appreciable financial assets and has no source of funds to sustain its operations.
8. The Special Deputy Receiver anticipates filing one or more additional Reports in the very near future concerning his recommendations for other investigations or activities at the Cemetery.

Respectfully submitted,



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in her capacity as receiver for Memorial
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APPENDIX A

1. Trustmark Bank: Business Checking Account (2573) held in the name of J & M Services, d/b/a Galilee Memorial Gardens with a balance as of March 31, 2014 of \$265.47.
2. Regions Bank: Business Checking Account (9274) held in the name of J & M Inc., d/b/a Galilee Memorial Gardens with a balance as of February 11, 2014 of \$0.00.
3. Regions Bank: Business Checking Account (8128) held in the name of J & M Inc., with a balance as of March 28, 2013 of (\$-1,180.69).
4. Regions Bank: Business Checking Account (9492) held in the name of Lambert & Sons, Inc., with a balance as of November 29, 2013 of \$0.00.
5. Regions Bank: Business Checking Account (8804) held in the name of Lambert & Sons, Inc., with a balance as of March 14, 2013 of \$0.00.
6. Regions Bank: Business Checking Account (8642) held in the name of Galilee Memorial Gardens Trust, with a balance as of March 31, 2013 of \$5.00.
7. Regions Bank: Personal Checking Account (4270) held in the name of Marje E. Lambert, with a balance as of June 7, 2013 of \$0.00.
8. Regions Bank: Personal Checking Account (9000) held in the name of Jemar Lambert with a balance as of October 27, 2011 of \$0.00.
9. Regions Bank: Personal Checking Account (6820) held in the name of Marje Lambert with a balance as of March 24, 2014 of \$1,467.52.

10. Regions Bank: Personal Checking Account (5867) held in the name of Jemar Lambert with a balance as of January 22, 2014 of \$0.00.
11. Regions Bank: Personal Savings Account (0628) held in the name of Marje Lambert with a balance as of December 31, 2013 of \$2.00.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Third Interim Report of the Special Deputy Receiver has been mailed First Class Postage prepaid to the following interested parties and attorneys requesting notice and transmitted via email this 10th day of December, 2014:

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