

IN THE CHANCERY COURT  
FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

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APR 19 2013

Dev. Co. Chancery Court

JULIE MIX MCPEAK, COMMISSIONER )  
of the TENNESSEE DEPARTMENT of )  
COMMERCE & INSURANCE, )

Plaintiff, )

vs. )

BOOKWALTER CEMETERY, )  
a/k/a the NEW BOOKWALTER CEMETERY, )  
and CHARLES LAIRD SMITH, )

Defendants. )

Case No. 10-1426-III

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ORDER RESOLVING OBJECTION OF IMA JEAN COX  
TO THE GRAVE SPACE CLAIM OF ROY AND JUANITA SMITH

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This matter was heard on April 17, 2013, upon the objection of Ima Jean Cox to the Receiver's recommendation for Court approval of the final grave space listing for Bookwalter Cemetery.

On February 27, 2013, the Receiver filed a status report that included a recommendation for approval of a final grave space listing for Bookwalter Cemetery. The listing assigned burial rights and ownership in two grave spaces designated as lot 54, grave spaces 4 and 5, to claimants Roy and Juanita Smith. On March 22, 2013, Leroy Von Cox filed an objection on behalf of his mother, Ima Jean Cox, asserting that Ms. Cox had purchased five grave spaces in the cemetery designated as lot 54, grave spaces 1 through 5, which included the two grave spaces claimed by Mr. and Ms. Smith. On March 25, 2013, the Receiver filed and served a notice describing the objection. On April 2, 2013, the Receiver filed and served an on-site report that included a

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proposed resolution of the objection. Based on these filings and the record as a whole, as well as the representations of the Special Deputy Receiver, the Court finds as follows:

1. On March 18, 2013, Leroy Von Cox contacted the Special Deputy Receiver by telephone indicating that he believed his mother, Ima Jean Cox, owned five grave spaces in the Bookwalter Cemetery; that his mother had been ill and remained gravely ill; and that he was unaware of the current status of the Bookwalter Cemetery or the proof of ownership project that had taken place in this receivership action. After viewing the court-filed documents posted to the Special Deputy Receiver's website, Mr. Cox contacted the Special Deputy Receiver again by telephone indicating that he believed his mother owns five spaces in the cemetery designated as lot 54, grave spaces 1 through 5, and that his sister is buried in an unmarked grave in one of the spaces claimed by Roy and Juanita Smith. The Special Deputy Receiver informed Mr. Cox that without some form of documentation regarding the purchase, it would be difficult to substantiate his mother's claim to the two spaces designated as lot 54, grave spaces 4 and 5, which had already been claimed by Mr. and Ms. Smith through the proof of claim process. Mr. Cox was further informed, however, that if he could substantiate the location of his sister's unmarked grave, it would indicate that his mother's claim was accurate.

2. On March 19, 2013, Mr. Cox again contacted the Special Deputy Receiver by telephone, stating that he had visited Mynatt Funeral Home of Knoxville, which was the establishment that had handled his sister's funeral and burial. After testing and measuring, Mynatt Funeral Home confirmed that Mr. Cox's sister, Linda Shadrick, is buried in lot 54, grave space 5.

3. On March 20, 2013, the Special Deputy Receiver received a copy of the written objection that Mr. Cox filed with the Court on March 22, 2013.

4. On March 22, 2013, the Special Deputy Receiver contacted Roy and Juanita Smith by telephone to inform them of the objection. Mr. and Ms. Smith indicated that they had purchased grave spaces in the cemetery to be located in front of their sons' graves.

5. On March 25, 2013, the Special Deputy Receiver met with Buddy Coomer of Mynatt Funeral Home and Johnny King at the contested location in the Bookwalter Cemetery. Based on on-site inspection and further location efforts, it became apparent that Mr. and Ms. Smith did not have a rightful claim to lot 54, grave spaces 4 and 5.

6. Further research at the site determined that Mr. and Ms. Smith own two spaces in the cemetery designated as lot 53, grave spaces 5 and 5W1. Mr. King stated to the Special Deputy Receiver that Mr. and Ms. Smith had wanted the spaces directly in front of their sons' graves, but Mr. King knew they were unavailable and, therefore, had sold them two spaces on the front row which are four to eight feet from one of their sons' graves. On March 25, 2013, the Special Deputy Receiver communicated this information to Ms. Smith, who indicated that she was "ok so long as we have two grave spaces near our sons because that is what we bought." The Special Deputy Receiver explained the location to Ms. Smith, and she replied that she wanted a deed or whatever official paper that made those spaces theirs.

7. On March 27, 2013, the Special Deputy Receiver contacted Mr. Cox by telephone to inform him of the Special Deputy Receiver's findings. The Special Deputy Receiver told Mr. Cox that his mother's claim had been properly reflected in the grave space listing as her owning five spaces designated as lot 54, grave spaces 1 through 5, and that Mr. and Ms. Smith would not challenge her claim. Mr. Cox indicated that he was satisfied and that once he received a copy of the Receiver's report, he would inquire as to how to withdraw his mother's objection.

Accordingly, the Court concludes that the objection is well taken and that sufficient proof supports resolution of the objection by granting the following relief:

IT IS HEREBY ORDERED that **Ima Jean Cox** is granted burial rights and ownership in five grave spaces in the Bookwalter Cemetery designated as lot 54, grave spaces 1 through 5;

IT IS FURTHER ORDERED that **Roy and Juanita Smith** are granted burial rights and ownership in two grave spaces in the Bookwalter Cemetery designated as lot 53, grave spaces 5 and 5W1;

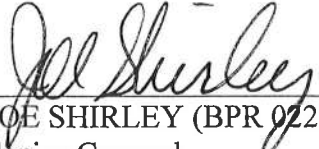
IT IS FURTHER ORDERED that the Receiver shall revise the final grave space listing for Bookwalter Cemetery and shall issue preliminary grave space statements to reflect the designation of burial rights and ownership in the grave spaces ordered hereinabove; and

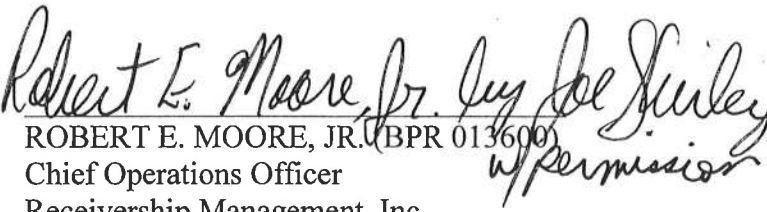
IT IS FURTHER ORDERED that if no objection to this Order is filed with the Court by **May 24, 2013**, this Order shall be recognized and adopted as the final resolution of this matter.

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ELLEN HOBBS LYLE, CHANCELLOR

Submitted for Entry:

  
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JOE SHIRLEY (BPR 022287)  
Senior Counsel  
Office of the Attorney General  
John Sevier Building  
500 Charlotte Avenue  
P.O. Box 20207  
Nashville, TN 37202  
(615) 532-8812  
(615) 532-8223 (fax)

  
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ROBERT E. MOORE, JR. (BPR 013600)  
Chief Operations Officer  
Receivership Management, Inc.  
Special Deputy Receiver  
Bookwalter Cemetery  
783 Old Hickory Blvd., Suite 255  
Brentwood, TN 37027  
(615) 370-0051  
(615) 373-4336 (fax)

Certificate of Service

I hereby certify that a true and exact copy of the foregoing Order was served by first-class U.S. Mail, postage prepaid, upon:

Bookwalter Cemetery  
c/o Johnny King  
5129 Rockcrest Road  
Knoxville, TN 37918

Charles Laird Smith  
223 Dunbar Road  
Crossville, TN 38572

J. Wayne Pugh, Deputy General Counsel  
Michael D. Driver, Chief Counsel  
Department of Commerce & Insurance  
Regulatory Boards Division  
500 James Robertson Parkway  
Nashville, TN 37243

Leroy Von Cox  
1668 Adswood Road  
Clarksville, TN 37042

Roy and Juanita Smith  
6522 Keck Road  
Knoxville, TN 37912

This 19<sup>th</sup> day of April, 2013.

  
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Joe Shirley