

**BEFORE THE ARKANSAS CEMETERY BOARD  
CASE NO. C-15-0056**

**IN THE MATTER OF:**

**GRACELAWN MEMORIAL  
PARK; VAN BUREN,  
ARKANSAS**

**ORDER NO. C-15-0056-16-OR01**

**ORDER**

The Arkansas Cemetery Board (“Board”) held its quarterly meeting on January 7, 2016, pursuant to Ark. Code Ann. § 20-17-1005 and Rule 5 of the Rules of the Arkansas Cemetery Board. Among the matters considered was the matter of the late filing of the Cemetery Company Annual Report by Gracelawn Memorial Park and the late filing of the Trustee Annual Report by Ronnie Ocker, Michael Ocker, and Nolan Bryoles and the removal of \$52,000 of principal from the permanent maintenance fund of Gracelawn Memorial Park. Upon consideration of the testimony of the witnesses, the exhibits, and all other matters presented, the Board hereby finds and concludes:

**FINDINGS OF FACT**

1. Gracelawn Memorial Park (“Gracelawn”) is located in Van Buren, Arkansas and is licensed by the Board as a perpetual care cemetery as defined by the Cemetery Act for Perpetually Maintained Cemeteries, Ark. Code Ann. §§ 20-17-1001—20-17-1030 (“Act”).
2. Gracelawn has appointed Ronnie Ocker, Michael Ocker, and Nolan Bryoles as the three trustees of the cemetery pursuant to Ark. Code Ann. § 20-17-1014(b)(2).

3. The annual report detailing the condition of the permanent maintenance fund (“trust report”) was due on March 16, 2015. The trustees filed the trust report on July 29, 2015, 134 days late.

4. The annual report of the condition of the cemetery (“cemetery report”) is due on March 16, 2015. Maple Leaf filed the cemetery report on July 29, 2015, 134 days late.

5. Between August 29, 2014 and July 28, 2015, approximately \$52,000.00 was removed from the Gracelawn permanent maintenance trust fund.

6. On December 30, 2015, the trustees of Gracelawn had repaid \$40,000 to the Gracelawn permanent maintenance trust fund by the purchase of a Certificate of Deposit in the name of “Gracelawn Cemetery Perpetual Care Fund.” This Certificate of Deposit was purchased with the Account Ownership type of “Corporate” and not “Trust.”

7. As a late fee for the cemetery report, Gracelawn was assessed an additional contribution to the permanent maintenance fund in the amount of \$6,700. The cemetery was offered a chance to have the late fee amount for the late filing waived by the Board upon timely filing of the 2015 annual cemetery report due by March 15, 2016.

8. As a late fee for the late trust fund deposits, Gracelawn was assessed an additional contribution to the permanent maintenance fund in the amount of \$6,700.00.

9. The trustees were offered a chance to have the late fee amount for late filing waived by converting to an individual trustee trust fund authorized by Ark. Code Ann. § 20-17-1014(b)(1), timely filing the 2015 annual trust fund report due by March 15, 2016, correcting the Account Ownership type of the Certificate of Deposit, and

replacing the remaining \$12,000.00 to the permanent maintenance trust fund by March 15, 2016.

### **CONCLUSIONS OF LAW**

10. The trustee of the permanent maintenance fund is required to file an annual report of the condition of the fund with the Board within 75 days after the end of each calendar year. Ark. Code Ann. § 20-17-1015(a)(1).

11. If the trustee does not file the annual report within the 75 days, as required by the Act, the Board may require the trustee to pay an additional contribution to the permanent maintenance fund of no more than \$50.00 per day until the report is filed. Ark. Code Ann. § 20-17-1015(c)(3).

12. A cemetery company is required to file an annual report of the condition of the cemetery with the Board within 75 days after the end of each calendar year. Ark. Code Ann. § 20-17-1023(a)(1).

13. If the cemetery company does not file the annual report within the 75 days, as required by the Act, the Board may require the cemetery company to pay an additional contribution to the permanent maintenance fund of no more than \$50.00 per day until the report is filed. Ark. Code Ann. § 20-17-1023(c)(1).

14. The principal of the permanent maintenance fund shall be preserved. Ark. Code Ann. § 20-17-1013(a)(1)(B).

15. It is unlawful for any person to remove any principal of the permanent maintenance fund from the trust. Ark. Code Ann. § 20-17-1018(a)(2).

**ORDER**

IT IS THEREFORE ORDERED that Gracelawn and its trustees make an additional contribution to the permanent maintenance fund of \$6,700.00 for a late filing of the 2014 annual trustee company report due on March 16, 2015, this late fee will be waived conditioned upon Gracelawn replacing the remaining \$12,000.00 to its permanent maintenance fund, correct its Certificate of Deposit dated December 30, 2015, timely filing the 2015 annual trustee report due by March 15, 2016, and converting to an individual trustee trust fund authorized by Ark. Code Ann § 20-17-1014(b)(1) by March 15, 2016. It is further ordered that the requirement for Gracelawn and its trustees to make an additional contribution to the permanent maintenance fund of \$6,700 for a late filing of the 2014 annual cemetery report due by March 16, 2015, this late fee will be waived conditioned upon Gracelawn timely filing the 2015 annual cemetery report due by March 15, 2016.

Dated this 12<sup>th</sup> day of February, 2016.

**ARKANSAS CEMETERY BOARD**



\_\_\_\_\_  
G. William "Bill" Booker, II  
Chairperson



\_\_\_\_\_  
B. Edmond Waters  
Secretary