BEFORE THE ARKANSAS CEMETERY BOARD

Case No: C-08-055

IN THE MATTER OF:

SUNTRUST BANK, INC.,
as trustee for WE-PARADISE
GARDENS, LLC;
EDMONDSON, ARKANSAS

Order No. C-08-055-08-OR01

ORDER

The Arkansas Cemetery Board ("Board") held its quarterly meeting on June 25, 2008, pursuant to Ark. Code Ann. § 20-17-1005 and Rule 4 of the Rules of the Arkansas Cemetery Board. The Board heard evidence and considered a request for waiver of a late fee assessed against SunTrust Bank, Inc., as trustee for WE-Paradise Gardens, LLC, a perpetual care cemetery located in Edmondson, Arkansas. Kimberly Wade and Mark Banov appeared via telephone conference from Atlanta, Georgia, on behalf of SunTrust Bank, Inc. 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. WE-Paradise Gardens, LLC, is a perpetual care cemetery located in Edmondson, Arkansas, under the jurisdiction of the Cemetery Act for Perpetually Maintained Cemeteries, ("Act"), Ark. Code Ann. §§ 20-17-1001—20-17-1029.

2. WE-Paradise Gardens, LLC, has appointed SunTrust Bank, Inc., ("SunTrust Bank") to serve as the trustee of its permanent maintenance fund, as authorized by Ark. Code Ann. § 20-17-1014(1).

3. The annual report of the condition of the permanent maintenance fund of WE-Paradise Gardens, LLC, was due on March 1, 2008. SunTrust Bank filed the annual report of the condition of the permanent maintenance fund on behalf of WE-Paradise Gardens, LLC, on May 6, 2008. The annual report was sixty-six (66) days past due.

4. SunTrust Bank was assessed an additional contribution ("late fee") to the permanent maintenance fund of WE-Paradise Gardens, LLC, in the amount of three thousand three hundred dollars ($3,300.00) due to SunTrust Bank's failure to timely file the annual report of the condition of the permanent maintenance fund.

5. SunTrust Bank requested that the Board consider a waiver of the late fee.

6. Upon consideration of the arguments by SunTrust Bank, the Board voted to deny the request for waiver of the late fee of three thousand three hundred dollars ($3,300.00).

CONCLUSIONS OF LAW

7. A trustee of the permanent maintenance fund is required to file an annual report of the condition of the fund with the Board within sixty (60) days after the end of the calendar year. Ark. Code Ann. § 20-17-1015(a).

8. The Act provides that failure to timely file an annual report of the condition of the permanent maintenance fund shall be grounds for the trustee to pay an additional contribution to the permanent maintenance fund in the amount of fifty ($50.00) dollars per day until the report is filed with the Board. Ark. Code Ann. § 20-17-1015(c)(3).

9. Orders of the Board are subject to review by the Circuit Court of Pulaski County, Arkansas, or by the circuit court in the county in which any part of the cemetery

lies, provided that an application for review of the order is made with the appropriate court within thirty (30) days of the date of entry of the order. Ark. Code Ann. § 20-17-1005(e).

ORDER

IT IS THEREFORE ORDERED that the request by SunTrust Bank, Inc., for a waiver of the assessed late fee of three thousand three hundred dollars ($3,300.00) for failure to timely file an annual report of the condition of the permanent maintenance fund of WE-Paradise Gardens, LLC, is hereby denied.

Dated: July 21, 2008

ARKANSAS CEMETERY BOARD

BETTY FINLEY
Chairperson

A. HEATH ABSHURE
Secretary