

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III**

STATE OF TENNESSEE, ex rel.)
 ROBERT E COOPER, JR., ATTORNEY)
 GENERAL and REPORTER,)

Plaintiff,)

VS.)

SENIORTRUST OF FLORIDA, INC.,)

Defendant.)

STATE OF TENNESSEE, ex rel.)
 ROBERT E. COOPER, JR.,)
 ATTORNEY GENERAL and)
 REPORTER,)

Plaintiff,)

VS.)

ELDERTRUST OF FLORIDA, INC.,)

Defendant.)

NF
 NO. 11-1548-III

NO. 12-1283-IV(III)

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MEMORANDUM ON START-UP OF DISTRIBUTION PLAN

Background

These cases have been remanded from the Tennessee Court of Appeals, Middle Division, for distribution of the remaining charitable assets of the two above-captioned nonprofit Corporations. Context for the distribution is that the Corporations were chartered in the State of Tennessee to assist elderly persons with hospitals, nursing homes, retirement housing and healthcare facilities. In 2011 and 2012, upon the petition of the Attorney General, the Corporations were found to be unable to fulfill their charitable purposes and

were judicially dissolved in this case. Additionally, the Attorney General commenced litigation to recover damages claiming the Corporations had been improperly operated for private benefit. A settlement of that litigation was reached which resulted in the charitable assets to be distributed herein. Those assets total \$35 million (the "Funds"). The matter for completion on remand to this Court is preparation and implementation of a Distribution Plan for the Funds.

Distribution Plan Parameters

Based upon proceedings and filings prior to the appeal and remand, the Court has established three parameters as a starting point for a Distribution Plan:

1. In keeping with the Corporations' chartered purposes, the Funds shall be used to benefit the elderly population of the State of Tennessee.
2. Existing organizations and entities shall be used to distribute and/or receive and use the Funds.
3. An opportunity for public input on the Distribution Plan will be provided.

Logistical Considerations

Additionally, to assure meaningful and statewide distribution of the Funds, the Court is considering a Distribution Plan that will use a combination of: (1) direct giving and (2) granting foundations. Under this approach, the Funds would be divided into two portions (the relative percentages would be determined after more information and input). One

portion would be allocated to direct giving distribution; the other portion allocated to distribution by granting foundations.

With respect to direct giving, the Court is considering implementing the proposal of Fifty Forward and the HCA Foundation and others of forming a voluntary consortium of the professional staff of local foundations in the three grand divisions of the State to review submissions by organizations which seek to be recipients of the Funds. The Consortium would make recommendations to the Court for distribution of the Funds. Structure for the Consortium process could include that the Consortium would design a standard application form, to be approved by the Court, for those who seek to receive Funds. A designated application time would be set. Another source of structure is that the percentage of each of the 95 Tennessee Counties of the whole State population could be determined. Each County's population percentage would then be multiplied by the total amount of the Funds allocated for direct giving distribution. In making recommendations to the Court for distribution of the Funds, the Consortium could use each County's population percentage as a check or benchmark on the total amount of the Funds recommended for allocation to that County to assure statewide outreach and coverage.

With respect to the other component of the Distribution Plan: granting foundations, one or a small group of granting foundations would be selected by the Court to distribute the other portion of the Funds. Selection would be based upon the experience and organizational ability of a foundation to handle large gifts, their statewide outreach, and their experience in

distribution to charities for the elderly. To obtain this qualifying information, a form would be designed by the Attorney General and approved by the Court, and a designated application period would be set.

Public Comment Process

The foregoing is the initial approach of the Court.

Before crafting a plan, however, the Court shall provide for public input by providing a time for written comments to be filed and a hearing for oral comments. To accomplish this, the Court shall issue a notice of the commentary process.

The Notice shall provide something along the lines as follows:

**Public Comment on Plan For Statewide
Distribution of Charitable Funds For Organizations
and Programs Benefitting the Elderly**


Distribution of charitable funds for seniors from settlement of Cases 11-1548-III and 12-1283-III in Davidson County Chancery Court is being planned. The deadline for written public input is May 6, 2016. Comments shall be mailed to Davidson County Clerk and Master, Attn: Part 3 Clerk, 1 Public Square, Suite 308, Nashville, TN 37201. All comments shall be read by the Court and are a matter of public record. A hearing will be conducted on _____ for those who filed written comments and wish to address the Court.

To publish and disseminate the Notice, the Court needs the assistance of the Attorney General for posting on his website. Additionally, on or before March 30, 2016, the Attorney General shall check with the Tennessee Commission on Aging to see if they have a “blast” email list or other means by which the Notice could be disseminated. Further, before

releasing the *Amici Curiae*, they are requested to file a report with the Court on or before March 30, 2016 on whether the Notice could be disseminated in some fashion by their organizations. Also, the Court will post the Notice on the website of the Davidson County Clerk and Master. It would be further helpful if this Order could be posted in conjunction with the Notice.

Order of Consolidation

Lastly, unless a party to this case objects, on April 1, 2016, the Court shall enter an order consolidating the two above captioned cases.



ELLEN HOBBS LYLE
CHANCELLOR

cc: Paul S. Davidson
Tera Rica Murdock
Janet M. Kleinfelter
Jeremy Pyper
D. Alexander Fardon
H. Lee Barfield, II
Gary C. Shockley
Courtney Gilmer
Claiborne K. McLemore III
Gary Housepian
Carolyn W. Schott
Amy R. Mohan
Ellen Lehman
Scott Perry
Joanne Pulles

 **MAILED** *faxed*
3-15-16