
Clayton Smart set to plead guilty in Forest Hill embezzlement case

By Lawrence Buser

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After spending nearly four years in the Shelby County Jail, the former owner of the Forest Hill funeral businesses may be getting out soon, but only to be incarcerated elsewhere.

Prosecution and defense attorneys announced Friday in Criminal Court that 70-year-old Clayton Smart will plead guilty to theft, embezzlement and possibly other charges here, in federal court and in Michigan.

A hearing is set for later this month.

Smart, who is from Morris, Okla., is charged with criminal offenses accusing him of embezzling millions from trust funds from customers who prepaid for funerals and cemetery maintenance in Michigan and Tennessee.

He has signed off on a memorandum of understanding with prosecutors that outlines the terms of the negotiated settlement in the three jurisdictions, said his attorney Lee Gerald.

"He's relieved to move through this and he is ready to get out of 201 Poplar," said Gerald, adding that the agreement with prosecutors is to recommend his client serve the bulk of his time in a federal prison.

Under the tentative agreement, Smart would:

Plead guilty in Criminal Court in Memphis to theft over \$60,000 and a recommended sentence of 10 years in prison. He already has served enough time in jail to be eligible for parole in that case.

Plead guilty in Michigan state court to theft, embezzlement, racketeering or other charges. His sentencing range there would be four to 20 years.

Plead guilty to federal charges to be brought in U.S. District Court in Oklahoma and transferred to federal court in Memphis for disposition. Smart would plead by way of

criminal information -- an alternative to grand jury indictment -- with a recommended sentence of up to five years in prison.

The proposed settlement and sentencing must be approved by the judge in each court.

About 13,000 people in Memphis were affected when Smart said in 2006 that he would not honor prepaid funeral arrangements in full. Some families had to pay thousands of dollars extra to cover funeral costs, but the state later seized the funeral homes and began honoring the policies again.

Last year, codefendant Mark Singer, 45, an investment adviser from Philadelphia, was tried on theft, conspiracy and money-laundering charges in the case, but the two-month-long case ended in a hung jury.

Prosecutors contend that \$2.8 million in Forest Hill trust funds went into Singer's personal accounts.

A retrial is tentatively set for March but last month in Indianapolis, Singer was convicted of theft charges related to the disappearance of about \$24 million from Memory Gardens Management Corp. in Indiana.

Singer faces up to 10 years and is scheduled to be sentenced later this month.

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