

COPY

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
20<sup>TH</sup> JUDICIAL DISTRICT  
AT NASHVILLE  
PART III

STATE OF TENNESSEE, )  
*ex rel.* JULIE MIX MCPEAK, )  
solely in her official capacity as )  
Commissioner of )  
Commerce & Insurance, )  
 )  
Plaintiff, )  
 )  
 )  
 )  
v. )  
 )  
 )  
VICKIE L. RINGLEY, individually )  
and d/b/a Hawkins County )  
Memorial Gardens, )  
 )  
Defendant. )  
 )

No. 14-1642-III

FILED  
2014 NOV 24 PM 2:01  
CLERK AND MASTER  
DAVIDSON CO. CHANCERY CT.  
DC&M

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VERIFIED PETITION FOR THE APPOINTMENT OF  
THE COMMISSIONER AS RECEIVER FOR HAWKINS COUNTY  
MEMORIAL GARDENS AND FOR EXTRAORDINARY RELIEF

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The State of Tennessee, on relation of Julie Mix McPeak, solely in her official capacity as Commissioner of the Department of Commerce & Insurance of the State of Tennessee (“Commissioner”), through her counsel, the Attorney General and Reporter, pursuant to Tenn. Code Ann. §§ 46-1-301 and 46-1-312, petitions this Court for an Order appointing the Commissioner as receiver for Hawkins County Memorial Gardens (also referred to herein as the “Cemetery”). In support hereof, the Commissioner alleges as follows:

## NATURE OF THIS ACTION

1. The Commissioner brings this action for her appointment as receiver of Hawkins County Memorial Gardens to liquidate, rehabilitate, or conserve the Cemetery, as needed, and to prevent further violations of the Cemetery Act of 2006, Tenn. Code Ann. Title 46, chapters 1 and 2 ("Cemetery Act"). As alleged more fully below, relief is necessary because Vickie L. Ringley, the owner and operator of the Cemetery, failed to establish a pre-need merchandise and services trust fund as required by law and has instead taken monies that should have been trusted and put them into her personal account, commingled them with personal funds, and used them for personal expenses. Further, Ms. Ringley has operated the Cemetery without a registration. Finally, and most importantly, Ms. Ringley has caused the Cemetery to no longer have any money with which to operate. As a result, the Cemetery is impaired, insolvent, and cannot meet its contractual obligations to customers. Unless Ms. Ringley and anyone acting on her behalf or for the Cemetery is enjoined from further activity and a receiver is appointed, the financial woes of the Cemetery will become greater, customers will continue to see their contracts go unfulfilled, and the situation will worsen.

## PARTIES

2. Plaintiff Julie Mix McPeak is the duly appointed Commissioner of the Department of Commerce & Insurance of the State of Tennessee. The Commissioner brings this action solely in her official capacity.

3. Defendant Vickie L. Ringley owns and operates, as a sole proprietorship, Hawkins County Memorial Gardens, a cemetery that is located at 536 Carters Valley Loop, Rogersville, Tennessee. Until December 31, 2013, Vickie L. Ringley, doing business as Hawkins County Memorial Gardens, operated the Cemetery under a certificate of registration issued by the Commissioner.

#### **JURISDICTION AND VENUE**

4. Pursuant to Tenn. Code Ann. §§ 46-1-301 and -312(a), this Court has jurisdiction over the subject matter and parties to this action.

5. Since one of the remedies sought through this action is the appointment of the Commissioner to act as receiver of Hawkins County Memorial Gardens, venue and exclusive jurisdiction properly lie in Davidson County. Tenn. Code Ann. § 46-1-312(a)(2).

#### **RELEVANT PROVISIONS OF THE CEMETERY ACT**

6. Operation of cemeteries in Tennessee is governed primarily by the Cemetery Act. Under the Cemetery Act, a valid certificate of registration is required before a person may lawfully operate a cemetery. Tenn. Code Ann. § 46-1-103. Cemetery registrations are valid for a period of one year. Tenn. Code Ann. § 46-1-104.

7. The duty and authority to administer and enforce the Cemetery Act rests with the Commissioner. Tenn. Code Ann. § 46-1-301(a). The Commissioner's powers and duties under the Cemetery Act include examining the books and records

of cemeteries, Tenn. Code Ann. § 46-1-303, and filing suit to enforce the Cemetery Act. Tenn. Code Ann. §§ 46-1-301(c) and -312.

8. Cemetery customers often buy merchandise and services on a “pre-need” basis, meaning that they purchase such items at “the time prior to death when the use of merchandise or services is not actually required.” Tenn. Code Ann. § 46-1-102(21). However, there is a risk that monies given to a cemetery for merchandise and services on a pre-need basis may not be available to pay suppliers for those items at the time they are actually required. This can happen for a number of reasons, including poor financial management on the part of the cemetery company.

9. To help mitigate against that risk, the General Assembly instituted a number of statutory requirements for cemetery companies.<sup>1</sup> First, the Cemetery Act provides that cemetery companies must establish a pre-need merchandise and services trust account (“Pre-Need Merchandise and Services Trust Fund”). Tenn. Code Ann. § 46-1-207(b)(2). The purpose of this statutory requirement is to “ensure that the pre-need sale of merchandise and services is properly accounted for and administered.” Tenn. Code Ann. § 46-1-201.

10. Second, when a customer intentionally enters into a pre-need sales contract with a cemetery, the Cemetery Act requires the cemetery company to deposit an amount equal to the procurement costs of the merchandise or services plus an additional twenty percent of those costs into the Pre-Need Merchandise and Services

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<sup>1</sup> Ms. Ringley is an individual owning and controlling cemetery lands and property and conducting the business of a cemetery, and is therefore a “cemetery company” under the Cemetery Act. *See* Tenn. Code Ann. § 46-1-102(2).

Trust Fund within 60 days of receipt; otherwise, that pre-need contract is not enforceable against the customer. Tenn. Code Ann. § 46-1-207(b)(1)(A) and (B).

11. Third, and in an effort to provide even broader protection to cemetery customers, the Cemetery Act provides that in the event a cemetery company enters into *any* contract—pre-need or not—for the sale of merchandise and services to be used or performed in connection with the interment or commemoration of a deceased human being that provides for delivery within 60 days, and the cemetery company fails inexcusably to deliver the merchandise or services within 120 days, the cemetery company is required to deposit *all monies* received under the contract into the Pre-Need Merchandise and Services Trust Fund. Tenn. Code Ann. §§ 46-1-206(b)(1).

12. The Cemetery Act provides that the Commissioner may be appointed as receiver for a cemetery registered with the Commissioner upon the occurrence of any one of a number of events, including when a cemetery does not maintain trust funds in the manner required by law, allows its registration to lapse, becomes impaired or insolvent, has appeared to have misappropriated or misapplied trust funds, and has reached a condition where it cannot meet its contractual obligations. Tenn. Code Ann. § 46-1-312(a)(1).

### GENERAL ALLEGATIONS

13. The Cemetery has been owned and operated by Vickie Ringley since 1998.

14. On April 15, 2013, the Tennessee Department of Commerce, Division of Regulatory Boards, Burial Services Section (“Burial Services”) conducted an

examination of records and reports for the period January 1, 2012 through March 31, 2013. Burial Services found several issues with the Cemetery, including that the Cemetery did not appear to have a Pre-Need Merchandise and Services Trust Fund, despite previously filed information that indicated otherwise. Burial Services also discovered that certain contract forms were missing statutorily required language and that the Cemetery's improvement care trust fund report was overdue. The examination report detailing Burial Services' findings was issued on September 16, 2013.<sup>2</sup>

15. Throughout 2013, customers filed a number of complaints against Ms. Ringley claiming that she had failed to perform under contracts for merchandise and services.

16. For example, on August 13, 2013, Roger and Linda Williams filed a complaint with Burial Services claiming they paid \$3,946 to Ms. Ringley on September 1, 2012 for merchandise which, despite numerous demands, had not been delivered. On August 28, 2013, Steve Burns filed a complaint claiming he paid \$3,000 to Ms. Ringley on June 18, 2012 for merchandise which, despite numerous demands, had not been delivered. And on August 21, 2013, Michael Williams filed a complaint claiming he paid \$2,345 to Ms. Ringley on September 6, 2012 for merchandise which, despite numerous demands, had not been delivered.

17. On December 31, 2013, the Cemetery's registration with the State of Tennessee expired.

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<sup>2</sup> A true and accurate copy of this 2013 report is attached as Exhibit A1 to the Affidavit of Robert Gribble, filed contemporaneously with this Petition.

18. In light of the complaints, and after evaluating Ms. Ringley's conduct, on January 10, 2014, the Department of Commerce & Insurance hand delivered a notice of facts and conduct warranting formal agency proceedings as required by Tenn. Code Ann. § 4-5-320(c) along with a notice that Ms. Ringley's registration had expired.

19. On January 28, 2014, Ms. Ringley provided a written statement to the Hawkins County Sheriff's Office in connection with a criminal investigation.<sup>3</sup> In this statement, Ms. Ringley admitted that she never established a Pre-Need Merchandise and Services Trust Fund. Ms. Ringley further stated that she had no bank account for the Cemetery and only operated from her personal account. Ms. Ringley further stated that she did not have any money to pay suppliers for ordered merchandise, that she had been misusing customer monies by taking funds paid by one customer to catch up and buy a prior customer's obligations at the time the prior customer's merchandise and services were actually required to be delivered, and that she was using these monies for personal expenses.

20. Upon learning of Ms. Ringley's statements, on February 10, 2014, and upon petition of Burial Services, the Commissioner took emergency action and entered an Order of Summary Suspension against the Cemetery and Ms. Ringley.<sup>4</sup> The Order of Summary Suspension was served on Ms. Ringley on February 17, 2014. The Order of Summary Suspension provides that Ms. Ringley:

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<sup>3</sup> A true and accurate copy of the Ringley Written Statement to Sheriff's Office is attached as Exhibit B1 to the Affidavit of Adrian Chick, filed contemporaneously with this Petition.

<sup>4</sup> A true and accurate copy of the Order of Summary Suspension is attached as Exhibit A3 to the Affidavit of Robert Gribble, filed contemporaneously with this Petition.

immediately cease and desist from any further operation of the cemetery pending the outcome of formal proceedings, including but not limited to the establishment, maintenance, management, operation, improvement and conduct of the cemetery; opening or closing graves or mausoleums or lawn crypts; the care, preservation, or embellishment of the property; and exercising or attempting to exercise control or any finances or monies of the cemetery.

21. The purpose of the Order of Summary Suspension is to protect the public health, safety, and welfare by preventing Ms. Ringley's continued operation and financial control over a cemetery that was not in compliance with the Cemetery Act pending the outcome of formal agency proceedings.

22. On March 5, 2014, Burial Services filed a Notice of Hearing and Charges and commenced a contested case against Ms. Ringley. Based on an evaluation of her conduct, documented violations of the law, the number of customer complaints, and the general failure or refusal to perform contractual obligations, Burial Services believed it appropriate to revoke Ms. Ringley's license and seek civil penalties.<sup>5</sup>

23. Since filing the Notice of Hearing and Charges, Burial Services has received eight additional complaints from burial lot owners or next of kin alleging that Ms. Ringley had failed to perform contracts for merchandise and services. Burial Services has, to date, received more than 30 customer complaints regarding the Cemetery.

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<sup>5</sup> The contested case, *In the Matter of Vickie L. Ringley, individually and d/b/a Hawkins County Memorial Gardens*, Before the Commissioner of the Department of Commerce and Insurance, Docket No. 12.31-125023J, is pending.

24. According to complaints filed with Burial Services, Ms. Ringley has now accepted more than \$35,000 worth of contracts on which she has failed or refused to perform.

25. Further, on or about May 4, 2014, in a written statement made in correspondence in the course of contested case proceedings, Ms. Ringley stated that as of March 22, 2014, the Cemetery had “no money to operate.”<sup>6</sup>

26. On or about September 15, 2014, a trustee scheduled a foreclosure sale on September 26, 2014, on personal property including a residential home owned in part by Ms. Ringley.<sup>7</sup>

27. On September 25, 2014, Ms. Ringley, along with her husband, filed bankruptcy in federal court<sup>8</sup>, and the foreclosure sale was stayed. In the Petition for Bankruptcy, Vickie Ringley and her husband claimed that their joint assets totaled between \$0 to \$50,000, and their joint liabilities totaled between \$500,001 and \$1 million.

28. Roughly a week later, Ms. Ringley voluntarily dismissed her petition for bankruptcy claiming lack of a confirmable plan.

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<sup>6</sup> A true and accurate copy of the Ringley Correspondence in Contested Case is attached as Exhibit B2 to the Affidavit of Adrian Chick, filed contemporaneously with this Petition.

<sup>7</sup> A true and accurate copy of the Public Notice of Trustee’s Sale is attached as Exhibit A4 to the Affidavit of Robert Gribble, filed contemporaneously with this Petition.

<sup>8</sup> Petition for Bankruptcy and subsequent Order Dismissing Chapter 13 Case Upon Request of Debtor(s) are attached collectively as Exhibit A5 to the Affidavit of Robert Gribble, filed contemporaneously with this Petition.

**ALLEGATIONS OF CONDUCT WARRANTING RECEIVERSHIP**  
**PURSUANT TO TENN. CODE ANN. § 46-1-312(A)(1)**

29. Based on events in contested case proceedings and information obtained from independent investigation, the Commissioner has determined that the following grounds exist for the appointment of the Commissioner to take charge of, control, and manage Hawkins County Memorial Gardens as receiver pursuant to Tenn. Code Ann. § 46-1-312(a)(1).

**Count I - The Cemetery Is Impaired and Insolvent**

30. Tenn. Code Ann. § 46-1-312(a)(1)(C) states that the Chancery Court of Davidson County, upon the petition of the Commissioner, may appoint the Commissioner as receiver of a cemetery registered with the Commissioner if the cemetery is impaired or insolvent.

31. According to Ms. Ringley, as of May 22, 2014, there was no money to operate the Cemetery. *See Ringley Correspondence in Contested Case*, page 1 of 2.

32. Ms. Ringley has further admitted that when customers pay her for merchandise, she does not immediately order the items because she has bills to pay. *See Ringley Written Statement to Sheriff's Office*, page 4 of 4.

33. Ms. Ringley has also admitted that because of inadequate funds, she improperly used monies provided to her by one customer to catch up and buy prior customer's obligations when they came due. *Id.*, at page 4 of 4.

34. Ms. Ringley has also recently filed bankruptcy jointly with her husband and claimed that their liabilities outstrip their assets by hundreds of thousands of

dollars, further demonstrating the extent of Ms. Ringley's and the Cemetery's financial impairment.<sup>9</sup> See Petition for Bankruptcy.

35. In addition, there is no Pre-Need Merchandise and Services Trust Fund. See Ringley Written Statement to Sheriff's Office, page 2 of 4. In the absence of such a fund, the Cemetery does not have the financial reserve required by statute to satisfy customer obligations that are currently due and will come due in the future.

36. In light of the Cemetery's lack of money, the mismanagement of monies actually received, and the absence of funds that were supposed to be set aside in the required Pre-Need Merchandise and Services Trust Fund to satisfy obligations as they come due, the Cemetery is impaired and insolvent.

**Count II - Ms. Ringley Will Not Be Able to Meet the Cemetery's Contractual Obligations When They Come Due**

37. Tenn. Code Ann. § 46-1-312(a)(1)(G) states that the Chancery Court of Davidson County, upon the petition of the Commissioner, may appoint the Commissioner as receiver of a cemetery registered with the Commissioner if the cemetery cannot or will not be able to meet all of its contractual obligations when they become due.

38. According to Ms. Ringley, as of May 22, 2014, there was no money to operate the Cemetery. See Ringley Correspondence in Contested Case, page 1 of 2.

39. Ms. Ringley has also stated that due to the inadequacy of funds that she has had to use monies from other customers to catch up and satisfy prior customer

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<sup>9</sup> Ms. Ringley operates the Cemetery as a sole proprietorship; a sole proprietorship has no legal existence or identity separate or apart from the sole proprietor. See, e.g., *Hitt v. Hitt*, 1994 WL 618608, at \*2 (Tenn. Ct. App. 1994) (attached as Exhibit A to this verified petition).

obligations as they come due. *See Ringley Written Statement to Sheriff's Office, page 4 of 4.*

40. Ms. Ringley has also recently filed bankruptcy jointly with her husband and claimed that their liabilities outstrip their assets by hundreds of thousands of dollars, further demonstrating the extent of Ms. Ringley's and the Cemetery's financial impairment. *See Petition for Bankruptcy.*

41. Additionally, over 30 customers that contracted with Ms. Ringley for merchandise and services have now claimed that they never received the items promised.

42. Further, since there is no Pre-Need Merchandise and Services Trust Fund (*see Ringley Written Statement to Sheriff's Office, page 2 of 4*), the Cemetery does not have the financial reserve required by statute to satisfy customer obligations that are currently due or will come due in the future.

43. In light of the number of customer complaints and unfulfilled contractual obligations, the number of current and future obligations that must be fulfilled, the absence of funds that were supposed to be set aside in the required Pre-Need Merchandise and Services Trust Fund to satisfy obligations as they come due, and the Cemetery's lack of money, the Cemetery cannot satisfy current or future contractual obligations.

**Count III - Ms. Ringley Has Not Maintained Trust Funds in the Manner Required By Tenn. Code Ann. § 46-1-101, et seq.**

44. Tenn. Code Ann. § 46-1-312(a)(1)(A) states that the Chancery Court of Davidson County, upon the petition of the Commissioner, may appoint the

Commissioner as receiver of a cemetery registered with the Commissioner if the cemetery has not maintained trust funds in the manner required by the Cemetery Act.

45. Ms. Ringley was required to establish a Pre-Need Merchandise and Services Trust Fund for the Cemetery. Tenn. Code Ann. § 46-1-207(b)(2). If after the expiration of 120 days, Ms. Ringley failed to deliver merchandise and services that were due within 60 days, she was required to deposit all monies received under such contracts into a Pre-Need Merchandise and Services Trust Fund in accordance with Tenn. Code Ann. § 46-1-206(b)(1).

46. Frequently over the past several years, Cemetery customers have purchased merchandise and services and the items were not provided by Ms. Ringley within 120 days.

47. For example, Roger and Linda Williams paid \$3,946 to Ms. Ringley on September 1, 2012 for merchandise that has not been delivered.<sup>10</sup>

48. Additionally, Steve Burns paid \$3,000 to Ms. Ringley on June 18, 2012 for merchandise that has not been delivered.<sup>11</sup>

49. Additionally, Michael Williams paid \$2,345 to Ms. Ringley on September 6, 2012 for merchandise that has not been delivered.<sup>12</sup>

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<sup>10</sup> A true and accurate copy of the Linda Williams Affidavit is attached as Exhibit B3 to the Affidavit of Adrian Chick, filed contemporaneously with this Petition.

<sup>11</sup> A true and accurate copy of the Steve Burns Affidavit is attached as Exhibit B4 to the Affidavit of Adrian Chick, filed contemporaneously with this Petition.

<sup>12</sup> A true and accurate copy of the Michael Williams Affidavit is attached as Exhibit B5 to the Affidavit of Adrian Chick, filed contemporaneously with this Petition.

50. In at least 10 other instances, according to sworn statements made by other customers, Ms. Ringley inexcusably failed to provide merchandise within 120 days.

51. In each of these instances, after the expiration of 120 days, Ms. Ringley was required to deposit all monies received under these contracts into a Pre-Need Merchandise and Services Trust Fund in accordance with Tenn. Code Ann. § 46-1-206(b)(1) so that the monies would be safeguarded and available to acquire the items when the need for them finally arose.

52. Since Ms. Ringley never established a Pre-Need Merchandise and Services Trust Fund, none of these monies were trusted after the expiration of 120 days. Accordingly, Ms. Ringley has therefore not maintained trust funds in accordance with the Cemetery Act.

**Count IV - Ms. Ringley Has Misappropriated  
and Misapplied Trust Funds**

53. Tenn. Code Ann. § 46-1-312(a)(1)(E) states that the Chancery Court of Davidson County, upon the petition of the Commissioner, may appoint the Commissioner as receiver of a cemetery registered with the Commissioner if there is reasonable cause to believe that there has been misappropriation or other wrongful misapplication or use of trust funds.

54. As alleged in Paragraphs 44-52, frequently over the past several years, Cemetery customers have purchased merchandise and services and the items were not provided within 120 days. At such time, Ms. Ringley was required to deposit all

monies received under these contracts into a Pre-Need Merchandise and Services Trust in accordance with Tenn. Code Ann. § 46-1-206(b)(1).

55. Since Ms. Ringley has never set up a Pre-Need Merchandise and Services Trust Fund (see Ringley Written Statement to Sheriff's Office, page 2 of 4), she has never deposited any of those monies into the required trust fund. Thus, she unlawfully maintained personal possession of these monies.

56. Additionally, Ms. Ringley has stated that there is no checking account for the Cemetery and that she only operates with a personal checking account. *Id.*, at page 4 of 4.

57. Therefore, the monies received by Ms. Ringley from Cemetery customers that should have been trusted for the benefit and protection of the customers appear to have instead been put into Ms. Ringley's personal account and commingled with personal funds.

58. Ms. Ringley has admitted to using such monies to pay for obligations of the Cemetery and for personal expenses, including paying her mortgage, light bill, and other expenses. *Id.*, at page 4 of 4.

59. As a result, the Commissioner has reasonable cause to believe that Ms. Ringley has misappropriated and misapplied monies for her own benefit that should have been placed into the Pre-Need Merchandise and Services Trust Fund.

**Count V - Ms. Ringley Has Allowed  
the Cemetery's Registration to Lapse**

60. Tenn. Code Ann. § 46-1-312(a)(1)(B) states that the Chancery Court of Davidson County, upon the petition of the Commissioner, may appoint the

Commissioner as receiver of a cemetery registered with the Commissioner if the cemetery has allowed its registration to lapse.

61. Tenn. Code Ann. § 46-1-103 provides that a cemetery is required to have a valid certificate of registration in order to operate lawfully. It is a Class A misdemeanor for a cemetery to operate without such registration. *Id.*

62. On December 31, 2013, Ms. Ringley's registration with the State of Tennessee expired without renewal. To date, the Cemetery's registration has not been renewed.

63. Despite this lapse in registration, upon information and belief, Ms. Ringley has continued to conduct business on behalf of the Cemetery.

**APPOINTMENT OF COMMISSIONER AS RECEIVER**  
**PURSUANT TO TENN. CODE ANN. § 46-1-312**

64. The Commissioner re-alleges all matters set forth in paragraphs 1 through 63 and incorporates them by reference herein.

65. As provided in Counts I-V and in paragraphs 30-63, grounds exist for the appointment of the Commissioner as receiver to take charge of, control, and manage the Cemetery.

66. Appointment of the Commissioner as receiver of the Cemetery is necessary to protect the public interest. As evidenced by the clear financial woes of the Cemetery, the improper use of monies by Ms. Ringley, and the number of customer complaints, a situation that is currently bad is becoming worse. The risk of potential litigation over the unmet contractual obligations concerning the interment and commemoration of customers and their loved ones continues to grow.

67. Appointing the Commissioner as receiver of Hawkins County Memorial Gardens with all of the authority set forth in Tenn. Code Ann. § 46-1-312 will enable the Commissioner to seek to resolve the outstanding financial issues the Cemetery faces and, if possible, rehabilitate the Cemetery for future use by the community.

68. For example, the Commissioner, as receiver, will have the opportunity to determine the extent of the Cemetery's obligations to customers and to make a determination as to the possibility of taking actions to generate income to help satisfy those obligations, which may include attempting to recover assets and monies that properly belong to the Cemetery or continuing business operations of the Cemetery, including but not limited to, selling additional graves on the Cemetery's property, to the extent such actions are determined to be possible.

69. The Commissioner, as receiver, will also be able to close any existing accounts and establish new ones as needed for the benefit of the Cemetery, including a Pre-Need Merchandise and Services Trust Fund, as required by law.

70. The Commissioner, as receiver, will also be able to seek a possible buyer of the Cemetery, given that the Cemetery appears to be a viable concern in light of the availability of land for graves.

#### **EXTRAORDINARY RELIEF**

71. The Commissioner re-alleges all matters set forth in paragraphs 1 through 70 and incorporates them herein by reference.

72. Tenn. Code Ann. § 46-1-301(c) states that the Commissioner may bring suit at law or equity to enjoin violations of the Cemetery Act.

73. Ms. Ringley has shown an inability or unwillingness to conduct the affairs of the Cemetery in a lawful manner and that she will continue to violate the Cemetery Act and Order of Summary Suspension by operating the Cemetery without a valid certificate of registration.

74. Moreover, since there is no bank account for the Cemetery or a Pre-Need Merchandise and Services Trust Fund, and since monies that properly belong to the Cemetery and its customers, to the extent any remain, appear to be in Ms. Ringley's personal checking account, and given Ms. Ringley's clear personal financial impairment and history of misappropriating Cemetery monies, there is substantial risk that such monies would be moved or disposed of by Ms. Ringley prior to a hearing on the Commissioner's request for receivership.

75. In view of the foregoing risks and concerns, Ms. Ringley and anyone acting on her behalf or for the Cemetery should be prohibited from any further operation or business of the Cemetery, interference with the business of the Cemetery, from making any withdrawals or other disbursements from any bank or brokerage account she or the Cemetery owns or maintains with assets or monies of the Cemetery or its customers, from destroying or concealing any books or records of the Cemetery, and from selling, transferring, concealing, or disposing of any of the Cemetery's assets.

76. As temporary relief, and in aid of the request for receivership, the Court should therefore restrain Ms. Ringley and anyone acting on her behalf or for the Cemetery from these activities in order to maintain the status quo and prevent

violations of the Cemetery Act and the Order of Summary Suspension. The Commissioner will move separately for any such relief.

77. After temporary injunctive relief is granted, permanent injunction should issue upon the allegations set forth in this Petition.

### PRAYER

Premises considered, the Commissioner prays:

1. That this petition be filed without cost bond or any other security as provided in Tenn. Code Ann. § 20-13-101, and that process issue and be served upon Vickie L. Ringley requiring her to appear and respond;

2. That this Court restrain and temporarily and permanently enjoin all further business activities by Vickie L. Ringley in contravention of law and orders of the Commissioner, as described in this Petition and as requested in the contemporaneously filed Application for Temporary Restraining Order;

3. That pursuant to Tenn. Code Ann. § 46-1-312(a)(4), the Court enter an order directing Vickie L. Ringley to appear and show cause why the Commissioner should not be appointed as receiver for the Cemetery;

4. That the Court enter an order substantially in the same form as the Order attached as Exhibit B hereto granting the Petition and appointing the Commissioner receiver for Hawkins County Memorial Garden and that the Court confer upon the Commissioner as receiver all of the powers and authority that is provided under Tenn. Code Ann. § 46-1-312;

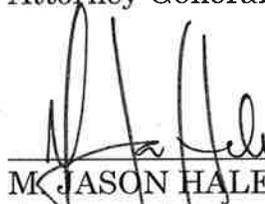
5. For an award of costs;

6. For such other legal or equitable relief as may be necessary and appropriate.

Respectfully submitted,



HERBERT H. SLATTERY III (9077)  
Attorney General and Reporter



M. JASON HALE (26840)  
Assistant Attorney General  
Financial Division  
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(615) 532-8812; fax 532-8223

**THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF IN THIS CAUSE**

VERIFICATION OF PETITION

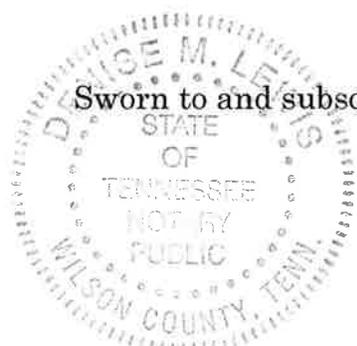
STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

I, Julie Mix McPeak, being first duly sworn, hereby state as follows:

I am the duly appointed Commissioner of the Tennessee Department of Commerce and Insurance and in that capacity I am the person ultimately responsible for the enforcement of the Cemetery Act, as amended, codified at Tenn. Code Ann. §§ 46-1-101, *et seq.* The performance of these duties has been delegated to my duly authorized representative, Robert Gribble, the Executive Director of the Burial Services section of the Tennessee Department of Commerce and Insurance, and personnel employed by his section. I have reviewed the petition in this cause and know the contents thereof and have made the necessary investigation to verify the same is true in substance and fact.

Julie Mix McPeak  
JULIE MIX MCPEAK

Sworn to and subscribed before me this 24<sup>th</sup> day of November, 2014.



Denise M Lewis  
NOTARY PUBLIC

My Commission expires: 2/15/16