

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
 20<sup>TH</sup> JUDICIAL DISTRICT  
 AT NASHVILLE  
 PART 2

STATE OF TENNESSEE, )  
*ex rel.* JULIE MIX MCPEAK, solely )  
 in her official capacity as )  
 Commissioner of )  
 Commerce & Insurance, )  
 )  
 Plaintiff, )  
 )  
 )  
 v. )  
 )  
 )  
 GALILEE MEMORIAL GARDENS, )  
 JM&M SERVICES, INC., )  
 LAMBERT MEMORIAL CO., aka )  
 LAMBERT MEMORIALS, INC. )  
 LAMBERT & SONS, INC. )  
 JEMAR LAMBERT, )  
 MARJE LAMBERT, )  
 and MARY H. LAMBERT, and ALL )  
 PERSONS ACTING IN CONCERT )  
 WITH THEM, )  
 )  
 Defendants. )  
 )

No. *14-102-II*

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 DAVIDSON CO. CHANCERY CT.  
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**FILED**

APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND  
 TEMPORARY INJUNCTION

The State of Tennessee, on relation of Julie Mix McPeak, solely in her official capacity as Commissioner of the Department of Commerce and Insurance of the State of Tennessee (Commissioner), through her counsel, the Attorney General and Reporter and pursuant to Tenn. R.Civ. P. 65.03 and 65.04, submits this application for an order restraining and/or temporarily enjoining Defendants and all other

persons acting in concert with them from engaging in the business of operating a cemetery in violation of the Cemetery Act of 2006, Tenn. Code Ann. §§ 46-1-101- 46-1-313 (Act), from concealing or destroying any books, papers, records and other documents related to the operation and management and business activities of Galilee Memorial Gardens (Galilee) and from transferring, withdrawing, concealing or disposing of any cash that is held on deposit in any bank, credit union or other financial institution in any account that is owned by or held for the benefit of Defendants or to sell, destroy, conceal or make any other disposition of Galilee's assets, wherever located, pending a hearing on the Commissioner's Petition for her appointment as Receiver of Galilee. Pursuant to Tenn. Code Ann. § 46-1-301(c), the Commissioner further moves that no bond be required in connection with the entry of such restraining order and/or temporary injunction.

In support hereof, the Commissioner would show as follows:

1. The Commissioner, pursuant to her authority under Tenn. Code Ann. § 46-1-312 has filed a petition for her appointment as Receiver of Galilee based on evidence that Defendants have operated Galilee without a valid certificate of registration in violation of Tenn. Code Ann. § 46-1-103, that as a result of the fraudulent acts of one or more of them, the ability of the cemetery to perform on its obligation to deliver merchandise or services has been substantially impaired and that Galilee will not be able to meet the obligations it has incurred through the sale of burial plots on a preneed basis as those obligations become due. That petition has been filed contemporaneously herewith and a hearing date has not been set by

the Court. The Commissioner has applied for a restraining Order for the sole purpose of preserving the status quo pending disposition of the Commissioner's Petition.

2. The affidavits and other evidence that the Commissioner has tendered in support of this Application establish that the requirements for the entry of a restraining order under Tenn. R.Civ. P. 65.03 have been met. Under Rule 65, a person moving for a restraining order must show: (1) a likelihood of success on the merits; (2) the movant will be irreparably harmed in the absence of such relief; (3) the defendant will not suffer undue prejudice from the entry of the order; and (4) entry of the order is in the public interest.

3. As set forth more fully in the Memorandum of Law that has been filed in support of this motion, the evidence produced by the Commissioner establishes good cause for her appointment as Receiver of Galilee and thus establishes a likelihood of success on the merits. There is also a likelihood of irreparable harm without the entry of a restraining order. Unless Defendants are restrained by the Court, there is nothing to prevent the Defendants from destroying or concealing records or from transferring, concealing, selling or disposing of cash and other assets. Any such act would materially interfere with or defeat the Commissioner's ability to effectively administer the receivership of Galilee. At the same time, a restraining order would not impose any undue hardship upon the Defendants. It would impose no costs or duties on Defendants and would do nothing more than prohibit the destruction or concealment of records or the transfer of disposition of assets. Furthermore, there

is a strong public interest in the subject matter of this litigation and that public interest would be best served by the maintenance of the status quo until this matter can be heard.

4. There is good cause exists for dispensing with the requirement to give prior notice of this Motion to the Defendants as set forth in section 19.02(a) of the Local Rules of Davidson County. As set forth more fully in the Affidavit of Saxon Durham, investigator in the Office of the District Attorney General in the 30<sup>th</sup> Judicial District, that Office is conducting a criminal investigation into the same subject matter and a search warrant is being obtained at or around the time of the filing of this Application. Prior notice to the Defendants could interfere with the effective execution of that warrant.

Premises considered, the Commissioner submits that the Application ought to be granted and that no bond be required in connection with the entry of the Restraining Order.

The Commissioner has tendered the following items in support of this Application:

1. Verified Petition for Appointment of the Commissioner as Receiver;
2. Supporting Memorandum of Law;
3. Affidavit of Robert Gribble with Exhibits;
4. Affidavit of Roy Bozeman with Exhibits.

5. Affidavit of Robert S. Durham.

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

Respectfully submitted,



ROBERT E. COOPER, JR. (10934)  
Attorney General and Reporter



MICHAEL A. MEYER (9230)  
Deputy Attorney General  
Special Litigation Division



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CERTIFICATE OF SERVICE

The undersigned certifies that this Pleading will be served on the below listed Defendants at the same time and in the same manner as the Summonses and the Petition for Appointment of Receiver that has been filed in this cause on the 24<sup>th</sup> day of January, 2014:

Galilee Memorial Gardens  
8283 Ellis Road  
Memphis, TN 38133

JM&M Services, Inc.  
8283 Ellis Road  
Memphis, TN 38133

Lambert Memorial Co, aka Lambert Memorials Inc.  
Lambert & Sons, Inc.  
8283 Ellis Road  
Memphis, TN 38133

Jemar Lambert  
8283 Ellis Road  
Memphis, TN 38133

Marje Lambert  
8283 Ellis Road  
Memphis, TN 38133

Mary H. Lambert  
8283 Ellis Road  
Memphis, TN 38133

  
MICHAEL A. MEYER