

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
COMMERCIAL LIST

THE HONOURABLE MR. )  
 )  
JUSTICE CUMMING ) FRIDAY, THE 21<sup>ST</sup> DAY  
 )  
 ) OF JULY, 2006

IN THE MATTER OF SECTION 47(1) AND 47.1(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985 C. B-3, AS AMENDED; AND

IN THE MATTER OF CREATIVE BUILDING MAINTENANCE INC., an Ontario  
corporation; and

IN THE MATTER OF CREATIVE BUILDING MAINTENANCE INC., a Delaware  
corporation

BETWEEN:

HSBC BANK CANADA,  
KEYBANK NATIONAL ASSOCIATION AND  
KEY EQUIPMENT FINANCE INC.

Applicants

- and -



CREATIVE BUILDING MAINTENANCE INC., an Ontario corporation  
and

CREATIVE BUILDING MAINTENANCE INC, a Delaware corporation

Respondents

**ORDER**

**THIS MOTION** made by the interim receiver and monitor, Doyle Salewski Inc. ("DSI" or the "Receiver") for Creative Building Maintenance Inc. (Ontario) ("CBM Canada") and Creative Building Maintenance Inc. (Delaware) ("CBM US") (collectively,

"CBMI") for an Order substantially in the form attached to the motion record herein was heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the motion record of the Receiver dated July 14, 2006 and the fifth report of the Receiver dated July 14, 2006 (the "Fifth Report") and the supplementary report of the Receiver dated July 19, 2006 (the "Supplementary Report") and the various affidavits and facta filed by the Secured Creditors (defined below) and on hearing the submissions of counsel for the Receiver, counsel for each of the senior secured creditors (HSBC Bank Canada ("HSBC"), RoyNat Inc. ("RoyNat"), KeyBank National Association and Key Equipment Finance Inc. (collectively, "KeyBank") and CIT Financial Ltd. ("CIT") (collectively, the "Secured Creditors"), counsel for the related parties (Phoenix Equity Inc., 2072789 Ontario Ltd., Phoenix Equity Limited II, 1354828 Ontario Limited c.o.b. as ACSYS Group, Michal Cerny, Anca Periet (a.k.a. Anca Perieteanu) and Angela Cerny, Antonia Alfonsi (collectively, the "Related Parties")) and on being advised of the consent of all parties, and the approval of the Settlement Agreement (as defined below) by the inspectors of the estate of CBM Canada, in bankruptcy, on this day, and that all persons listed on the service list were served with the motion record,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the motion record herein be and it is hereby abridged such that this motion is properly returnable today and, further, that any requirement for service of the motion record upon any interested party be and it is hereby dispensed with.

### **THE SETTLEMENT AGREEMENT**

2. **THIS COURT ORDERS** that the settlement agreement (the "Settlement Agreement") presented to the Court on this day among the Receiver, the Trustee in Bankruptcy, the Secured Creditors, the Related Parties, Domenico Alfonsi, Alexandru Perieteanu, Alexandru Perieteanu Jr. and Paul Harris and the transactions contemplated therein are on commercially reasonable terms and be and are hereby approved.

3. **THIS COURT ORDERS** that the Receiver and the Trustee in Bankruptcy be and are hereby authorized, empowered and directed to execute the Settlement Agreement, and the Receiver is further authorized, empowered and directed to implement and complete the transactions contemplated therein in accordance with the terms and conditions of the Settlement Agreement with such alterations, amendments, deletions and additions as the parties thereto may agree to, and to perform the obligations contained in the Settlement Agreement.

4. **THIS COURT ORDERS** that the Related Parties, Domenico Alfonsi, Alexandru Perieteanu, Alexandru Perieteanu Jr. and Paul Harris (collectively, with the Related Parties the "CBM Parties"), the Receiver, Trustee in Bankruptcy, Secured Creditors, and the unsecured creditors of CBMI be and are hereby bound by the terms of the Settlement Agreement including the release substantially in the form set out in Schedule "D" to the Settlement Agreement and for greater certainty, the Receiver, DSI in its capacity as trustee in bankruptcy of CBM Canada (the "Trustee in Bankruptcy") and the Secured Creditors are hereby barred from commencing any and all causes of action, claims and proceedings whatsoever as against the CBM Parties as articulated in the release attached as Schedule "D" to the Settlement Agreement.

5. **THIS COURT ORDERS** that the settlement funds (\$3,250,000) (the "Settlement Funds") paid to the Receiver pursuant to the Settlement Agreement shall be distributed to the unsecured creditors of CBMI on a *pro rata* basis of proven and accepted claims filed with the Trustee in Bankruptcy and/or the Receiver in accordance with the claims bar process set out in paragraphs 12 to 15 below (the "Claims Bar Process").

6. **THIS COURT ORDERS** that the allocation of the Settlement Funds, if any, between holders of unsecured claims of CBM US and CBM Canada shall be determined by this Court on a motion brought by the Trustee in Bankruptcy and the Receiver.

7. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel (Bennett Jones LLP) from May 19, 2006 to July 21, 2006 HSBC, KeyBank and their respective counsel (which for HSBC and KeyBank are fixed in the maximum amount of \$25,000 each plus GST) that are associated with the Settlement Agreement

including this motion for approval of same (the "Settlement Approval Motion") shall be allocated to the Settlement Funds.

8. **THIS COURT ORDERS** that, subject to further Order of this Court, the fees and disbursements of the Receiver and its counsel with respect to a priorities distribution motion (the "Priorities Motion") shall be allocated to the Secured Creditors on a *pro rata* basis in accordance with their respective realizations on their security; provided however, this Court has the unfettered discretion to award costs as it sees fit.

9. **THIS COURT ORDERS** that Secured Creditors shall be responsible for their own costs with respect to the Priorities Motion and with respect to the Settlement Approval Motion.

10. **THIS COURT ORDERS** that the activities of the Receiver as set out in the first report dated May 22, 2006, the second report dated May 24, 2006, the third report dated June 22, 2006 and the fourth report dated July 6, 2006 are hereby ratified and approved.

11. **THIS COURT ORDERS** that the approval of the Fifth Report and the Supplemental Report will be deferred until the Priorities Motion.

#### **THE CLAIMS BAR PROCESS**

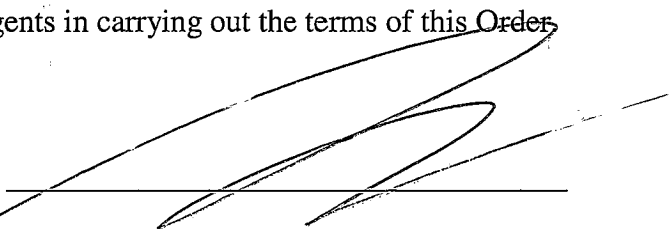
12. **THIS COURT ORDERS** that the Receiver and the Trustee in Bankruptcy shall bring a motion in the *Ontario* Superior Court of Justice (Commercial List) by no later than September 13, 2006 returnable before the Honourable Justice Cumming, for an Order barring any and all claims against CBM Canada and/or CBM US, or any third parties who could claim against the CBM Parties in respect of any and all claims and demands raised or made, or which could have been raised or made, including any matters raised or allegations contained in the Receiver's various reports filed with the Court, or contained in or related to proceedings commenced by each of HSBC, KeyBank, CIT and RoyNat, in the Court, bearing Court File Nos. 06-CL-006425 and 06-CL-006426, respectively, and any cause of action under the *Bankruptcy and Insolvency Act*, the *Fraudulent Conveyances Act*, the *Assignments and Preferences Act*, and the *Ontario*

*Business Corporations Act* in connection with CBM Canada and CBM US (the "Claims Bar Motion").

13. **THIS COURT ORDERS** that the Receiver shall advertise the date and nature of the Claims Bar Motion on or before July 28, 2006, by sending a notice to all known creditors of CBM Canada and CBM US and shall publish a notice of the Claims Bar Motion for one Business Day in the *Globe and Mail* (National Edition) and the *Wall Street Journal* (National Edition), which notices shall be substantially in the form attached as **Schedule "1"** hereto.

14. **THIS COURT ORDERS** that any party who wishes to attend at the Claims Bar Motion shall contact the Receiver by no later than September 1, 2006, and shall file a Notice of Appearance with the Court.

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JUL 24 2006

PER/PAR 

## Schedule "1"

**NOTICE TO CREDITORS OF CREATIVE BUILDING MAINTENANCE INC.,  
an Ontario corporation, and  
CREATIVE BUILDING MAINTENANCE INC., a Delaware corporation**

**RE: NOTICE OF CLAIMS BAR MOTION**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the *Ontario* Superior Court of Justice (Commercial List) (the "Court") made July 21, 2006 (the "Claims Bar Procedure Order"), a settlement was approved which included a claims bar procedure with respect to claims against each of Creative Building Maintenance Inc., an Ontario corporation ("CBM Canada") and of Creative Building Maintenance Inc., a Delaware corporation ("CBM US"). A copy of the Claims Bar Procedure Order can be obtained by contacting the Court-appointed Interim Receiver, Doyle Salewski Inc. (the "Receiver") at the address below.

**PLEASE TAKE NOTICE** that a motion to bar any and all claims against CBM Canada and/or CBM US, or any third parties who could claim against the parties listed below (the "Releasees") with respect to any and all matters relating to the affairs of the said companies, including without limiting the generality of the forgoing, any and all claims and demands raised or made, or which could have been raised or made, including any matters raised or allegations contained in the Receiver's reports filed with the Court, or contained in or related to proceedings commenced by each of HSBC Bank Canada, KeyBank National Association and Key Equipment Finance Inc and RoyNat Inc., in the Court, bearing Court File Nos. 06-CL-006425 and 06-CL-006426, respectively, and any cause of action under the *Bankruptcy and Insolvency Act*, the *Fraudulent Conveyances Act*, the *Assignments and Preferences Act*, and the *Ontario Business Corporations Act* in connection with CBM Canada and CBM US, is scheduled to be heard at **10:00 a.m.** on **September 13, 2006**, at 393 University Avenue, Toronto, Ontario (the "Claims Bar Motion").

**ANY CREDITOR WHO WISHES TO APPEAR AT THE CLAIMS BAR MOTION MUST CONTACT DSI AT THE ADDRESS NOTED BELOW AND FILE A NOTICE OF APPEARANCE BY NO LATER THAN 5 P.M. ON SEPTEMBER 1, 2005**

**IF YOU FAIL TO DELIVER A NOTICE OF APPEARANCE AND ATTEND AT THE CLAIMS BAR MOTION THEN YOU SHALL BE DEEMED TO HAVE ACCEPTED THAT ANY AND ALL CLAIMS WHICH YOU MAY HAVE AGAINST CBM CANADA AND/OR CBM US AND THE RELEASEES SHALL BE FOREVER EXTINGUISHED AND BARRED.**

**CREDITORS OR PERSONS REQUIRING INFORMATION** may contact Doyle Salewski Inc., monitor, court appointed interim receiver, and trustee in bankruptcy of Creative Building Maintenance Inc., an Ontario corporation, and monitor and court appointed interim receiver of Creative Building Maintenance Inc., a Delaware corporation, at:

Creative Building Maintenance Inc.  
c/o Doyle Salewski Inc.  
396 Bank Street  
Ottawa, Ontario  
K2P 1Y5

**Tel:** 613-569-4444

**Toll Free:** 1-888-488-5555

**Fax:** 613-569-1116

**Email:** [bpd@doylegroup.ca](mailto:bpd@doylegroup.ca)

**THE RELEASEES** are: Michal Cerny; Anca Periet (aka Perieteanu); Phoenix Equity Inc.; 2072789 Ontario Ltd.; 1354828 Ontario Limited c.o.b. as ACSYS Group; Angela Cerny; Phoenix Equity Limited II; Antonia Alfonsi; Domenico Alfonsi; Alexandru Perieteanu (husband of Anca Periet); Alexandru Perieteanu (son of Anca Periet); and Paul Harris.

HSBC BANK CANADA et al  
Applicants

CREATIVE BUILDING MAINTENANCE INC. et al  
Respondents

Court File No. 06-CL-006425

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**  
**(COMMERCIAL LIST)**  
Proceeding Commenced at Toronto

**ORDER**

**BENNETT JONES LLP**  
Suite 3400, P.O. Box 130  
1 First Canadian Place  
Toronto, Ontario, M5X 1A4

**Justin R. Fogarty, LSUC 26488G**  
Tel: (416) 777-4859

**Renée B. Brosseau, LSUC 47074R**  
Tel: (416) 777-4830  
Fax: (416) 863-1716

Solicitors for Doyle Salewski Inc., in its capacity as Trustee in Bankruptcy of Creative Building Maintenance Inc. (Ontario) and Interim Receiver and Monitor of Creative Building Maintenance Inc. (Ontario) and Creative Building Maintenance Inc. (Delaware), and not in its personal capacity