

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
COMMERCIAL LIST

THE HONOURABLE MR. ) FRIDAY, THE 16<sup>th</sup> DAY  
)  
JUSTICE CUMMING ) OF JUNE, 2006

IN THE MATTER OF SECTION 41(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") for an order (a) amending the May

8, 2006 order of the Honourable Madam Justice Mesbur (the "Appointment Order"); (b) providing for a standstill; (c) prohibiting certain acts; and (d) providing DSI, the trustee in bankruptcy for CBM Canada (the "Trustee in Bankruptcy), and its counsel with a charge was heard this day at 393 University Avenue, Toronto Ontario.

**ON HEARING** submissions of counsel for the Receiver, counsel for HSBC Bank of Canada ("HSBC"), counsel for RoyNat Inc. ("RoyNat"), counsel for KeyBank National Association and Key Equipment Finance Inc. (collectively, "KeyBank"), counsel for Phoenix Equity Inc. ("Phoenix"), counsel for 2072789 Ontario Ltd. ("Periet Hold Co.") counsel for Phoenix Equity Services Limited II ("Phoenix II"), counsel for 1354828 Ontario Limited c.o.b. as ACSYS Group ("ACSYS Group"), counsel for Michal Cerny and Anca Periet, and counsel for Angela Cerny and Antonia Alfonsi, and upon being advised of the consent of all parties,

### **COMEBACK**

1. **THIS COURT ORDERS** the Receiver shall report to this Court on or before Tuesday, June 27, 2006.

2. **THIS COURT ORDERS** that, notwithstanding any leave to appeal or appeal of this Order, this Order shall be subject to provisional execution pursuant to section 195 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

### **AMENDMENTS TO THE APPOINTMENT ORDER**

3. **THIS COURT ORDERS** that terms not otherwise defined herein shall have the meaning ascribed to them in the Appointment Order.

4. **THIS COURT ORDERS** that the Appointment Order be and is hereby amended as follows:

- (a) the title of proceedings bearing court file no. 06-CL-0006425 be and is hereby deleted and replaced with the following:

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,  
CREATIVE BUILDING MAINTENANCE INC, a Delaware corporation,

Respondents

- (b) paragraph 13 of the Appointment be and is hereby deleted and replaced with the following:

**THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments presently held, or hereafter received or collected by the Debtor or its agents including those funds held in escrow by counsel for the Debtor (Stan Zigelstein) and those to be received by Stan Zigelstein from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, depending on the currency, shall be deposited into either Canadian Dollar Account 000260056219 or United States Dollar Accounts 000260000817 and 0002600003-10 located at the Bank of Nova Scotia located at 186 Bank Street, Ottawa.

**STANDSTILL**

5. **THIS COURT ORDERS** that Angela Cerny and Phoenix II and any person or corporation acting under their direction, instruction or control, are hereby enjoined from selling, mortgaging, encumbering, pledging, transferring, assigning, diminishing or otherwise disposing of or dealing with the properties set out in **Schedule "A"** hereto (the "Cerny Properties") without the written consent of the Receiver.

6. **THIS COURT ORDERS** that the Cerny Properties may not be transferred, disposed of, conveyed, mortgaged, encumbered or leased to a non-arms length party.

7. **THIS COURT ORDERS** that, notwithstanding any provisions of this order, or any other prior order made in these proceedings, the net proceeds from any disposition, transfer, conveyance, mortgage or lease of the Cerny Properties, if any, shall be held in escrow by Goodman & Carr LLP until such further order of this Court.

### **PROHIBITED ACTS**

8. **THIS COURT ORDERS** that unless otherwise ordered by this Court or authorized or agreed to by the Receiver, Michal Cerny, Anca Periet (a.k.a. Anca Perieteanu), Angela Cerny and Antonia Alfonsi shall not:

- (a) part with the possession or control of any and all of records and information of any kind including books, documents, correspondence, papers, text, graphics, electronic data, computer tapes, computer programs, computer disks, or other data storage media containing any such information or other content of any electronic mail, or internet relay chat communications, or other information, instructions or data stored (collectively, the "Records") pertaining to CBM Canada, CBM US, ACSYS Group, Periet Hold Co., Phoenix or Phoenix II (the "Related Companies") or monies appropriated from HSBC, RoyNat, and KeyBank;
- (b) hide, destroy, or deface the Records of the Related Companies;
- (c) erase or delete from any means of electronic storage or transmit any of the Records from the Related Companies or alter, deface, discard, conceal or destroy in any manner any of the Records or any other thing in their possession; or
- (d) activate or operate either locally or remotely from any location or access or alter any Records of the Related Companies stored in any location that may constitute the Records.

### **SERVICE OF THIS ORDER**

9. **THIS COURT ORDERS** that that, for the purposes of this Order, the Receiver and counsel to the Receiver shall be authorized to serve this Order on all parties including the Related Parties by prepaid mail, courier, personal delivery, telecopier or e-mail at their last known addresses of the person to be served and that any such service if sent (a) by courier,

telecopier, personal delivery or e-mail shall be deemed to be received and effective on the day of forwarding; or (b) if sent by ordinary mail, shall be deemed to be received and effective on the second business day following the mailing.

**TRUSTEE IN BANKRUPTCY CHARGE**


10. **THIS COURT ORDERS** that the Trustee in Bankruptcy and its counsel shall be entitled to the benefit of and are hereby granted a priority charge (the "Trustee In Bankruptcy Charge") on the estate of CBM Canada, on a *pari passu* basis, which charge shall not exceed an aggregate amount of \$50,000, as security for their reasonable professional fees and disbursements in respect of the proceedings in accordance with the provisions of this Order, which charge shall rank subordinate to the Administration Charge.

11. **THIS COURT ORDERS** that the provisions of paragraphs 22 to 28 of the Appointment Order shall apply *mutatis mutandis* to give effect to the Trustee In Bankruptcy Charge.

June 16, 2006 Peter A. Cumming J.

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

JUN 16 2006

PER/PAR: 

**SCHEDULE "A"**

1. The following properties (collectively, the "Cerny Properties"):

- (a) Property municipally known as 2205 Dunwin Drive, Mississauga Ontario L5L 1X1 with Pin #19113-0008 (LT) and the following legal description: "Unit 8, Level 1, Peel Condominium Plan No. 113; LTS 299 to 302 PL 915 (Formerly Town Mississauga, Originally TWP Toronto), PTS 1 & 2 43R3894 More Fully Described in Schedule 'A' of Declaration LT99084; Mississauga" (the "Headquarters"), or such parts of the Headquarters as are in the control of Angela Cerny; and
- (b) Property located at Northeast Corner of Circle Mountain Road, Maricopa County, Arizona, 85087, with the following legal description: "The Southwest quarter of the Southeast quarter of the Southeast quarter of Section Three (3), Township Six (6) North, Range Three (3) East of the Gila and Salt River Base and Meridian" ("Maricopa Property"), or such parts of the Maricopa Property as are in the control of Angela Cerny and/or Phoenix II.

HSBC BANK CANADA et al  
Applicants

- and -

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