

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

REGIONS BANK,)	
as Indenture Trustee,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-cv-2239-JPM
)	
CME-CORNERS, INC., and)	
THE HEALTH, EDUCATIONAL AND)	
HOUSING FACILITY BOARD OF THE)	
COUNTY OF SHELBY, TENNESSEE,)	
)	
Defendants.)	

**AMENDED ORDER APPOINTING RECEIVER,
GRANTING INJUNCTIVE RELIEF, AND SETTING BOND**

THIS MATTER having come before the Court on the Expedited Motion For Appointment Of Receiver, Injunctive Relief, To Set Bond, And To Set Hearing (the “Motion”) and the Verified Complaint For Appointment Of Receiver, Injunctive Relief, And Damages (the “Verified Complaint”), filed by the Plaintiff herein, Regions Bank, in its capacity as successor indenture trustee under that certain Trust Indenture dated as of December 1, 1996 (the “Trustee,” as more fully described in the Verified Complaint), and the Ex Parte Motion For Amended Order (the “Amendment Motion”) filed by the Trustee, and the Court having considered the matter, considered the evidence presented, and for other good cause appearing, HEREBY FINDS:

1. Jurisdiction and venue are proper pursuant to 28 U.S.C. §§1332 and 1391.
2. The Issuer is the record title fee owner, and CME-Corners is the record title leasehold owner, of that certain multifamily residential rental Project known as the Corners Apartments, a 200-unit apartment project (the “Project”), consisting of certain real property,

together with the buildings, improvements, equipment and related facilities located thereon (collectively, as more fully described in the Verified Complaint, the “Collateral”) located in Shelby County, Tennessee.¹

3. On or about December 1, 1996, Issuer and First Commercial Trust Company, N.A., as the original indenture trustee, entered into that certain “Trust Indenture,” as amended from time to time, which, *inter alia*, authorized the Issuer to issue \$4,720,000 of Multifamily Housing Revenue Bonds (The Corners Apartments Project) in four separate series (the “Bonds” or the “Bond Issue”). The proceeds of the Bonds were used to finance the acquisition and rehabilitation of the Project by CME-Corners.

4. On or about December 1, 1996, CME-Corners entered into that Lease Agreement, as amended from time to time (the “Lease Agreement”), with the Issuer. The purpose of the Lease Agreement was to facilitate the conduit financing provided by the Bonds. Accordingly, CME-Corners obligated itself under the Lease Agreement to make payments sufficient to pay the obligation due under the Bonds. CME-Corners was, and is, for purposes of this action, the real party in interest with respect to ownership of the Project. Issuer’s interest in the Lease Agreement was assigned to First Commercial Trust Company, N.A., as indenture trustee to further secure the Bonds.

5. Pursuant to the Trust Indenture, the Issuer assigned to First Commercial Trust Company, N.A., as indenture trustee, *inter alia*, all of its right, title, and interest under the Lease Agreement. The Issuer and CME-Corners then executed that Deed of Trust, Security Agreement and Fixture Filing, dated as of December 1, 1996, granting a first priority lien and security interest in the Project along with all other Collateral (as defined in the Complaint), which shall

¹ The Project is more accurately and particularly described in Exhibit A to the Deed of Trust, dated as of December 1, 1996 (the “Deed of Trust”), a copy of which is attached as Exhibit C to the Verified Complaint.

be effective as a Financing Statement filed as a Fixture Filing, which was properly recorded with the Shelby County Register of Deeds, and has been continued, amended, and assigned from time to time (the “Deed of Trust”), in favor of Trustee to secure repayment of the Loan and Bonds (the “Deed of Trust”).

6. Pursuant to the Trust Indenture, the Issuer also assigned to First Commercial Trust Company, N.A., as indenture trustee, *inter alia*, all of its right, title, and interest under the Lease Agreement. Furthermore, pursuant to the Trust Indenture, the Issuer and CME-Corners also agreed to various provisions governing, *inter alia*, payment on the Bonds, defaults under the Bonds, Lease Agreement, Trust Indenture, and related documents, and remedies available to the indenture trustee for the benefit of the Bondholders.

7. Hereinafter, the Trust Indenture, Lease Agreement, Deed of Trust, and Bonds, each as amended, are referred to collectively as the “Bond Documents.”

8. The Trustee has succeeded First Commercial Trust Company, N.A., as indenture trustee.

9. Pursuant to the Deed of Trust and the Description of Collateral attached as Exhibit A to the Deed of Trust, Trustee has properly perfected liens against and security interests in, *inter alia*, the Project, as well as all Collateral encumbered by the Trust Indenture and Deed of Trust. As used herein, the term “Collateral” shall include the Project and the following described property:

- (a) all of Defendants’ respective rights, title, and interests in certain real property (the “Land” or the “Project”) located in Shelby County, Tennessee, and more particularly described in Exhibit “A” to the Deed of Trust which is attached hereto and incorporated thereto and therein together with all buildings, additions, improvements, and appurtenances then or thereafter located thereon or therein, whether or not acquired, renovated, expanded, constructed, or equipped with the proceeds of the

indebtedness evidenced by the Bonds and the Lease Agreement; including

- (b) all right, title, and interest of Defendants in and to all building material, building equipment, and fixtures of every kind and nature whatsoever on said Land or in any building or structure standing on said Land, and the reversion or reversions, remainder or remainders, in and to said Project, and together with the entire interest of Defendants in and to, all and singular, the tenements, hereditaments, servitudes, rights, privileges, easements, and rights of way then or thereafter appertaining thereto, including without limitation;
 - (c) the entire right, title, and interest of Defendants into and under any streets, ways, alleys, or strips of land adjoining said Project, and all claims or demands whatsoever of Defendants in law or in equity, in possession or expectancy of, in, and to said Project, it being the intention of Defendants that, so far as may be permitted by law, all property of the character thereinabove described, which was then owned or thereafter acquired by Defendants and is affixed or attached to said Project, shall be and remain or become and constitute a portion of said Project thereby conveyed in trust and the security covered by and subject to the lien, and to the terms and conditions of the Deed of Trust;
 - (d) together with all tangible and intangible personal property located on the Project or otherwise associated with the operation of the Project and owned by Defendants (including without limitation, all fixtures, furnishings, machinery, and equipment) whether then or thereafter attached or affixed to or installed or located within, and used or usable in connection with the development, construction, repair, rehabilitation, occupancy, maintenance, and/or operation of the Project; including
 - (e) renewals, replacements, proceeds, additions, accessories, increases, parts, fittings, insurance payments, awards, and substitutes thereof, whether then owned or thereafter acquired; and including
 - (f) all rents, deposits, income, revenues, issues, and profits thereof, plus all of CME-Corners' leasehold estate and other right, title, and interest of CME-Corners under the Lease Agreement (including all modifications, extensions, replacements and renewals, and all credits, deposits and options to purchase the Project or renew the Lease Agreement); and
 - (g) all tenant leases and subleases executed by CME-Corners covering the Collateral (as defined below), including, without limitation, all cash or security deposits, advances, rentals, guarantees and deposits of similar nature.
10. CME-Corners is currently in possession of the Project. No other party claims an

interest in the Collateral.

11. CME-Corners and the Issuer have defaulted on their respective obligations owed to Trustee and the bondholders (the “Bondholders”) under the Bond Documents by and through CME-Corners’ failure to make certain payments when due, and to comply with certain obligations and covenants under the Bond Documents, including the covenant to insure the Project, which puts both the Bondholders’ investments and the residents’ well-being at risk.

12. Trustee has a right to the appointment of a receiver for the Collateral and all receipts therefrom.

13. Unless a receiver is appointed and the requested preliminary injunctive relief is granted, the failure of CME-Corners to generate revenues sufficient to maintain the Project and other Collateral will greatly reduce the overall value of the Collateral and result in irreparable harm to the Trustee and Bondholders. The failure to use revenues for the purpose for which they are intended could threaten the viability of the Project, thereby making any final judgment under the Verified Complaint generally ineffectual.

14. The Court finds that sufficient notice has been provided to the parties to this proceeding to satisfy the requirements of Rules 65 and 66 of the Federal Rules of Civil Procedure.

15. The Court finds that, based upon the facts of this case (as presented through the verified proof presented to this Court), grounds are present for the issuance of preliminary injunctive relief and appointment of a receiver. The possibility of irreparable harm if injunctive relief, in the form of this Amended Order, is not granted is great. The Receiver must be given access to the Collateral, including its revenues, to effectively operate the Project and provide the necessary repair and maintenance for its tenants. Without such injunction, residents’ health and

welfare may be imperiled. The expedited nature of this request is also apparent. Further, Trustee is likely to succeed on the merits of its case. No substantial harm will be incurred by Defendants should this Amended Order be entered. The Receiver appointed hereunder shall post a bond, and the purpose of the receivership is to conserve and preserve the Collateral for the benefit of the Project's residents, the Trustee, and the Bondholders. Finally, the entry of this Amended Order will substantially promote the public interest. As a result of this Amended Order, the health and welfare of the tenants will be secured through the Receiver's ability to ensure that the appropriate residential habitability standards are maintained without interruption. Therefore, Trustee is entitled to the appointment of a receiver and to the requested injunctive relief.

16. Unless otherwise indicated herein, all capitalized terms used in this Amended Order shall have the same meaning as ascribed to them in the Verified Complaint.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

A. Cumberland & Ohio Co. of Texas and its President James A. ("Buddy") Skinner, located at 732 Harpeth Trace Drive, Nashville, Tennessee 37221, are hereby appointed receiver over the Collateral (the "Receiver"). The appointment of the Receiver extends only to the Collateral, and does not impose upon the Receiver any affirmative duty to act on behalf of, or defend, any of the Defendants.

B. The Receiver shall post a bond in the amount of one thousand dollars (\$1,000.00) within fifteen (15) days of the entry of the "Original Order," which was entered on May 4, 2006. The Receiver shall provide to the Court and Trustee proof that he has been insured and bonded for the purposes of performing all acts contemplated in this Amended Order, and that proper insurance has been put on the Project within thirty (30) business days of the entry of the Original

Order.

C. Upon entry of this Amended Order, the Receiver is hereby directed and empowered to take from the Defendants, their agents, employees, representatives and all of their affiliates and subsidiaries who now have or may in the future have any interest in the Collateral, immediate possession of the Collateral, wherever located, (a) to exclude the Defendants, and their respective agents, employees, representatives, affiliates, and subsidiaries from possessing or operating the Project, except as expressly provided for in this Amended Order, and (b) to collect the rents, revenues, income, profits, proceeds, and other benefits (whether the entitlement to such income arises before or after entry of the Original Order or this Amended Order) from the operation and management of the Project.

D. The Receiver is hereby appointed to take charge of and to manage, operate, and protect the Collateral, and is hereby given the powers and authority usually held by receivers and reasonably necessary to accomplish the purpose of this receivership, including the powers to:

(1) enter upon, take possession of, and assume control of the Collateral, including the Project;

(2) take possession of all inventory, equipment and improvements on the Project, and all books, records, and personal property relating to the Collateral, wherever located;

(3) to retain security personnel as necessary to secure the Project;

(4) to the extent necessary, to conduct a full inventory of all personal property comprised in the Collateral;

(5) contact employees, tenants, lessees, lessors, and any parties to contracts regarding the Collateral and receive, collect, and preserve from them all rents and other sums due the Project or the Defendants (as related to the operation of the Project);

(6) receive, collect, take possession of, and preserve all accounts, incomes, profits, and other revenues generated from the Collateral, and exercise any and all intangible rights;

(7) manage and operate the Project and other Collateral and to hire a professional management company, on terms approved by the Trustee, to assist with same;

(8) enter into all contracts necessary to continue, operate, maintain, and preserve the Collateral;

(9) to exercise all rights as to ownership of the Project subject to the limitations herein set forth;

(10) pay from the revenues of the Collateral the ordinary and necessary expenses of operating and maintaining the Collateral incurred from and after the date of the Receiver's appointment and said other reasonable expenses necessary to maintain the Collateral, including any property taxes; provided, however, the Receiver may not exceed by more than ten (10) percent in any given month in the aggregate, or with respect to any particular line item, the expenses set forth in such budget approved hereafter by Trustee or this Court, without the consent of the Trustee or further order of this Court after notice to the parties and an opportunity for hearing;

(11) deposit all revenues generated by the Collateral in a segregated interest-bearing account;

(12) borrow funds and/or factor the accounts receivable generated from the Project in order to meet the Project's working capital needs, but only in such amounts and to the extent permitted under the Bond Documents and on terms and conditions agreeable to Trustee and with Trustee's prior written consent;

(13) make an accounting and keep accurate records concerning the Collateral,

including the actual revenues collected and expenses paid each month, and to make sure such records are available to Trustee, CME-Corners, and the Court;

(14) permit Trustee or CME-Corners and their respective agents and independent contractors to inspect fully the Collateral, its accounts, and all books and records, including records as to the maintenance of any Collateral;

(15) appoint and retain agents and employees that are necessary to take charge of, repair, and maintain the Collateral;

(16) rent, lease, or license from time to time any part of the Collateral that may be deemed appropriate;

(17) make, cancel, enforce, or modify contracts, leases, or licenses relating to any part of the Collateral;

(18) operate and manage all other services which are a part of the operation of the Project or the Collateral;

(19) comply with all requirements of all governmental authorities;

(20) pay taxes, assessments, and utility charges;

(21) employ such persons as necessary to operate the Project, and to collect from any source all sums which may be due for the services or goods provided in connection with the Project;

(22) pay monthly to the Receiver a reasonable fee equal to two hundred fifty dollars (\$250.00) per hour, plus the Receiver's actual, reasonable out of pocket expenses incurred in carrying out his duties as Receiver for the Project;

(23) employ independent accountants, auctioneers, legal counsel, and other similar professionals to assist the Receiver in the performance of his duties as may be necessary during

the period of the receivership and pay reasonable value for those services from the revenues of the Project;

(24) institute, prosecute, defend, and settle such legal proceedings, as the Receiver deems necessary, relating to the protection or proper care of the Collateral, and to employ counsel therefor;

(25) obtain such insurance as necessary to insure the acts and conduct of the Receiver and those persons who he may employ to carry out the duties upon him;

(26) take all such actions and expend all such sums as may be necessary to obtain, maintain in effect, or transfer all licenses, insurance, zoning approvals, and other approvals to ensure that the property may continue to be used as a multifamily residential rental Project, and specifically as the Project;

(27) at the direction of Trustee and upon further Court Order, market and sell all or any part of the Collateral, pursuant to 28 U.S.C. § 2001, et. seq., and in accordance with such terms and conditions as are hereafter approved by Trustee and this Court;

(28) to change any and all locks on the Project;

(29) to pay the debt service and all other amounts which are owed to Trustee pursuant to the Bond Documents, as the Receiver receives revenues sufficient to make payment and pursuant to the priority provided in this Amended Order; and

(30) generally do, execute, and perform any other act, deed, matter, or thing whatsoever that the Receiver reasonably deems ought to be done, executed, and performed in and about or with respect to the Collateral or its revenues.

E. The Receiver is hereby authorized and directed to operate and manage the Collateral in the best interests of Trustee, the Bondholders, and residents of the Project, and to

take all action deemed reasonable and necessary to ensure compliance with all applicable requirements imposed by local, state, or federal law, and regulations promulgated by the State of Tennessee (or any corresponding federal agency or agencies), including, but not limited to, those requirements relating to the health and welfare of the tenants of the Project.

F. The Receiver shall apply all rents, revenues, issues and profits collected from the Collateral as follows:

(1) FIRST, to the extent funds are not otherwise available from CME-Corners, to the necessary and reasonable costs of maintaining, managing, operating and preserving the Collateral as provided in the budget approved by Trustee or the Court, including payments to the Receiver for protection of the Collateral, and the payment of all licenses, permits, and agreements that the Receiver shall deem necessary and in the best interest of preserving the Collateral and for the continued operation thereof, including the fees of the Receiver as set forth herein and the management company hired by the Receiver, all in accordance with applicable local, state, and federal law and regulations;

(2) SECOND, to the reasonable out-of-pocket expenses of the Receiver, including all advances made by the Receiver, or to the repayment of any payments or advances made by Trustee, reasonably necessary to preserve or conserve the Collateral, or to the repayment of any receivership certificates;

(3) THIRD, to the payment of the reasonable fees, expenses, and extraordinary fees and expenses of Trustee, including reasonable attorneys' fees and expenses, not otherwise paid or reimbursed to Trustee by CME-Corners, as provided under the Bond Documents;

(4) FOURTH, to the payment of the indebtedness payable by CME-Corners secured by the Deed of Trust and Trust Indenture; and

(5) FIFTH, to the funds to be held by the Receiver in federally insured, interest-bearing accounts pending further order of this Court.

The payments required in the Third and Fourth subparts of this paragraph shall be made by the last day of each month commencing the first full month following entry of the Original Order; provided, however, nothing in this paragraph shall require the Receiver to pay Trustee any amount if the funds the Receiver receives are not sufficient to cover all amounts specified in the First and Second subparts of this paragraph.

G. The Receiver's compensation for services under this Amended Order, not including any fee of any broker, auctioneer, attorney or accountant retained by the Receiver, shall be two hundred fifty dollars (\$250.00) per hour, plus the Receiver's reasonable and necessary out-of-pocket expenses directly related to the Project; provided however, prior to receiving payment for any month, the Receiver shall file with Trustee a monthly report documenting his time and expenses incurred for that month commencing on the twenty-fifth (25th) day of the first full month following entry of the Original Order, and continuing on the twenty-fifth (25th) day of each month during the pendency of the receivership. When the Receiver files his final report and motion for discharge, the Receiver shall file with this Court a fee application for final approval of the fees and expenses paid to the Receiver during the pendency of the receivership. The Trustee's right to object to any fees and expenses as unreasonable is preserved.

H. Commencing on the twenty-fifth (25th) day of the first full month following entry of the Original Order, and continuing on the twenty-fifth (25th) day of each month during the pendency of the receivership, the Receiver shall file with this Court and serve on the Trustee and attorneys for the parties, a report(s) concerning the operation and financial performance of the

Project for the prior month, in such form and with such content as the Trustee hereafter reasonably requires.

I. The Defendants, and their respective independent contractors and agents, and all persons in active concert and participation with them, including officers, directors, employees, agents, accountants, attorneys and banks, are ordered to deliver immediately over to the Receiver or his agents, whenever received, all Collateral and receivership property described above, including, without limitation, any and all rental payments and lease payments, keys to any aspect of the Collateral (including to all outbuildings and machinery located upon the Project or used in the operation and maintenance of the Project), accounts receivable, security deposits, trust accounts, bank accounts, personnel files, operations manuals, financial records, payroll records, certificates and licenses, contracts, leases, books, other records relating to the operation, maintenance, and management of the Collateral, fixtures, inventory, supplies, furniture, and equipment used or associated therewith, and all other things of value relating to the Collateral, and to permit the Receiver to carry out his duties under this Amended Order without interference.

J. The Receiver shall keep an accounting and keep accurate records concerning the Collateral from the date of the entry of the Original Order. Among the records to be kept are the actual revenues collected and expenses paid each month, and any other records which may be required by any law, or would be reasonable and prudent to keep under the circumstances. Such records shall be made available, upon reasonable request and notice, to Trustee, CME-Corners, and the Issuer, and shall be included in the monthly reports made to this Court.

K. Trustee may, in its sole discretion and without further Order of this Court, use any of the funds currently in its possession, or which are remitted to it by the Receiver during the

course of this receivership, in any manner it determines is necessary, including for the payment of its fees and expenses (including its reasonable attorneys' fees and expenses), operating expenses of the Collateral, or interest or principal payments on the Bonds.

L. Except as may be expressly authorized by this Court in this Amended Order or hereafter upon notice and a hearing, the Defendants, their respective successors, assigns, agents or any persons or entities claiming by, through or under them hereby are enjoined from:

(1) Possessing or managing the Collateral and from interfering in any way with the possession or management of the Project and other Collateral by the Receiver, including terminating or causing to be terminated any license, permit, lease, contract or agreement relating to the Collateral or the operation of the Project;

(2) Collecting, withdrawing, transferring, conveying, concealing, or otherwise disposing of the Collateral, including cash Collateral, and the proceeds derived therefrom, during the appointment of the Receiver, including collecting any rents, revenues, issues, proceeds or profits from the Collateral, or withdrawing funds from any bank or other depository account relating to the Collateral;

(3) Removing any property from the Project and from removing, destroying, concealing, changing, or altering in any manner any of the books or records relating to the ownership, possession, or operation of the Collateral. CME-Corners and Issuer and their respective agents are expressly charged with the duty of advising all banks, depositories, and creditors, if requested to do so by the Receiver, of the contents of this Amended Order, and its agreement that the Receiver be given full and sole access to all accounts, contracts or other rights and entitlements which previously inured to the benefit of CME-Corners, the Issuer, and/or their respective agents.

M. Except as may be expressly authorized by this Court in this Amended Order or hereafter upon notice and a hearing, the Defendants, their respective successors, assigns, agents or any persons or entities claiming by, through or under them, hereby are required to:

- (1) Pay the cash Collateral and the revenues derived therefrom to the Receiver; and
- (2) Pay and turn over immediately to the Receiver, and to perform all acts necessary to transfer to the Receiver, all funds on hand in cash and all funds held in deposit accounts of or for the benefit of the Collateral arising from the ownership, possession, or operation of the Collateral and all accounts, accounts receivable, and any other collectibles and all keys, books, records, equipment, and all things in any manner related to the ownership, possession or operation of the Collateral.

N. The Receiver shall permit Trustee and CME-Corners, upon reasonable request and notice, to fully inspect the Collateral and the books and records kept in connection with the operation of the Project.

O. To the extent applicable, the Receiver shall operate the Collateral so that the tax-exempt status of the Bonds is maintained and preserved.

P. Trustee or the Receiver (for as long as this Amended Order remains operative) may from time to time request that the Court enter additional orders to supplement, clarify, effectuate or amend this Amended Order.

Q. The Receiver may, as necessary and in its sole discretion, terminate any and all pre-receivership contracts between CME-Corners and any prior manager of the Project at any time without further Order of this Court. This Amended Order is deemed to satisfy any notice required by any management agreement between CME-Corners and any prior manager of the Project. Any claim any such manager may have for compensation or out-of-pocket expenses

shall be made in the manner provided herein for any other claimants against the Project.

R. Trustee shall forthwith provide a copy of this Amended Order, as entered by the Court, to counsel for CME-Corners and the Issuer via facsimile copy and by first-class mail to the addresses set forth on the Certificate of Service to the Motion. The Receiver or Trustee shall forthwith provide a copy of this Amended Order via first-class mail or hand delivery to the applicable taxing authorities and any persons in possession of the Collateral, or otherwise affected by this Order. Upon service of this Order upon any person or entity, or any employee or agent of such person or entity, such person shall be deemed to be required to comply with all of the terms of this Order from the moment of service upon such person, entity, agent or employee until the Court shall have relieved such person from the terms of this Amended Order by subsequent order. "Service" shall constitute oral or written notice in any form (including by facsimile) to the office of any person to be bound thereby.

S. Any creditor or party holding a claim arising from, related to, or against CME-Corners or the Collateral, including any of the Defendants, is enjoined from prosecuting such claim from the date of entry of the Original Order, except that Trustee may proceed to enforce its rights and remedies, including its power of sale and foreclosure remedies, under the Bond Documents and applicable law. In the event the Receiver or any of the Defendants are served with process or are otherwise notified of any pending lawsuit which could result in a lien or charge against the Collateral if reduced to judgment, or which could adversely affect the possession of the Receiver of any of the Collateral, the Receiver shall notify the plaintiff in such case of this Amended Order, and such plaintiff shall immediately cease the prosecution of such lawsuit and shall serve a claim upon the Receiver. In the event any claim is filed, such claimant shall be enjoined from further proceeding until this Court enters a further Order providing for the

disposition of all such claims. Defendants shall cooperate with the Receiver in notifying the Receiver and Trustee of any such claim made by legal process upon them by immediately contacting the Receiver and Trustee and making the Receiver and Trustee aware of the pendency of any such action.

T. Following the entry of this Amended Order, Trustee shall retain all rights and remedies under the Bond Documents and applicable state law to exercise its power of sale remedies, including foreclosure, with respect to the Collateral, as well as any and all other rights and remedies provided for under the Bond Documents, at law or in equity. In the event Trustee decides to pursue its foreclosure remedies, Trustee shall comply with the terms and conditions of the Bond Documents and applicable state law with respect to same.

U. In the alternative, Trustee may decide, in its sole discretion, to direct the Receiver to sell any or all of the Collateral pursuant to 28 U.S.C. § 2001, et seq. (a “Receiver Sale”). In the event Trustee decides to have the Receiver conduct a Receiver Sale, Trustee and the Receiver shall comply with 28 U.S.C. §§ 2001, 2002, and 2004.

V. In the event the Project and/or the related Collateral is sold by way of a Receiver Sale, unless otherwise ordered by this Court, all proceeds of such sale, after deducting expenses incurred in connection therewith, shall be transferred to Trustee to be held in escrow, with any liens against the Project and the related Collateral attaching to such proceeds in the same order of priority to which they attached to the Collateral itself.

W. At anytime hereafter, the Receiver and/or Trustee may seek, by motion and notice, an order establishing a final date for the filing of any claim against CME-Corners or the Collateral (the “Bar Date”) and for establishing the procedure (i) for the Receiver to identify those parties with claims against CME-Corners or the Collateral, (ii) to give notice of such bar

date, (iii) for claimants to establish their claims, and (iv) to adjudicate any objectionable or competing claims to the Collateral.

X. In the event the Project is transferred prior to setting the Bar Date, and Trustee has established its entitlement to all proceeds of the Collateral, then, in such event, the Court shall direct the Receiver to notify all holders of claims that no distribution shall be made on account of their claims, and all such creditors shall not make any further claims against the Collateral. Upon entry of such Order determining the entitlement to the proceeds of the Collateral and of this receivership, the receivership shall be dismissed upon disbursement of such proceeds to the party or parties adjudged entitled to such proceeds. In the event this receivership is dismissed without the disposition of the Collateral, creditors may resort to any remedies they had prior to the receivership being filed.

Y. Notwithstanding anything else herein, any claim asserted, or any judgment entered, herein for monetary damages against CME-Corners shall survive dismissal of the receivership. Further, Trustee's rights to exercise any and all other rights, remedies or obligations provided under the Bond Documents are hereby preserved. Specifically, and without limiting the preceding sentence, the Court hereby authorizes Trustee to sell all or part of the Collateral as necessary and in its sole discretion in accordance with the Bond Documents, including, but not limited to, by way of foreclosure, sale or lease.

Z. Except as otherwise provided herein, this receivership action and the preliminary injunction shall continue until further Order of this Court. Trustee shall post a bond in the amount of \$1,000 pursuant to Fed. R. Civ. P. 65(c). The bond may be posted in cash.

AA. This Amended Order shall supersede the terms of the Original Order and shall be effective as of May 4, 2006, the date of entry of the Original Order.

BB. The requirements of Rule LR7.2 of the Local Rules of the United States Bankruptcy Court for the Western District of Tennessee are deemed to have been satisfied.

IT IS SO ORDERED

ENTERED this 9th day of May, 2006.

/s/ Jon P. McCalla
UNITED STATES DISTRICT JUDGE

Submitted for Entry by:

/s/ Robert J. Welhoelter
John C. Tishler (#13441)
David E. Lemke (#13586)
Robert J. Welhoelter (#24203)

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