

**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. |) | |

**RECEIVER’S EXPEDITED MOTION TO OBTAIN LOAN
TO FINANCE CERTAIN RECEIVERSHIP EXPENSES AND TO SET HEARING**

TO THE HONORABLE JON PHIPPS MCCALLA,
UNITED STATES DISTRICT COURT JUDGE:

Cumberland & Ohio Co. of Texas and its President James A. (“Buddy”) Skinner, as receiver (the “Receiver”) submit this motion and hereby move this Court for approval of the Receiver’s obtaining a loan to finance certain receivership expenses (and that such loan’s repayment have priority over all other creditors with claims against the receivership property) and to set hearing regarding same (the “Motion”). In support of the Motion, the Receiver states as follows:

1. In connection with this Motion, the Receiver submits and relies upon its contemporaneously-filed Memorandum in Support of Receiver’s Motion to Obtain Loan to Finance Certain Receivership Expenses (together with exhibits thereto, the “Memorandum”). In addition, Trustee further relies and incorporates by reference the averments set forth in the Declaration of James A. Skinner, President of the Receiver (the “Receiver’s Declaration”),

which declaration is attached as Exhibit A to the Memorandum. Any capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Memorandum.

2. Pursuant to the Sale Procedures Order (as defined in the Memorandum), and as set forth in the Receiver's Declaration, the Receiver will be administering the Collateral through a Receiver Sale, which could be consummated by, but not before, late October 2006. Because the current cash flows of the Collateral indicate that expenses will outpace revenues, the Receiver seeks authority to obtain certain financing, up to \$50,000.00, from Regions Bank, either in its lending or representative capacity, in order to continue operations of the Collateral through the anticipated date of any Receiver Sale.

3. A proposed form of Order Authorizing Receiver to Obtain Financing of Certain Receivership Expenses is annexed hereto as Exhibit 1.

4. The Receiver requests, in light of the numerous bondholders that will be notified of this motion by the Trustee, that the Court set a hearing for the Motion at a date and time that provides adequate response times for such bondholders but also allows quick resolution of the Motion as a result of the pressing need for operating capital before the middle of October, 2006.

CERTIFICATION OF CONSULTATION

5. Pursuant to Local Rule 7.2(a)(1)(B), the undersigned hereby certifies that the creditors and their respective counsel are numerous, nor readily identifiable, and are not all known to the Receiver. Accordingly, consultation was not practicable and the Receiver has filed this Motion with the Court.

WHEREFORE, for the reasons set forth herein, the Receiver requests that this Court grant this Motion, enter the Financing Order granting approval for the Receiver to obtain the Financing on the terms set forth in the Financing Order, and grant all further relief that the Court deems proper.

Respectfully submitted,

/s/ Timothy G. Niarhos

Samuel K. Crocker (BPR #6094)

Timothy G. Niarhos (BPR #14428)

CROCKER & NIARHOS

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611 Commerce Street

Nashville, TN 37203

615-726-3322 – Telephone

615-726-6330 – Facsimile

skctrustee@aol.com/tim@skctrustee.com

Attorneys for the Receiver

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Motion (including exhibits) to be served via U.S. Mail, postage prepaid, upon the following named parties to this action on September 15, 2006:

ACE Electric, Inc.
P.O. Box 348
Ellendale, TN 38029

ADP Security Services, Inc.
P.O. Box 371967
Pittsburgh, PA 15250-7967

AllState Group – Claims
National Property Sufro
3800 Electric Road, Suite 301
Roanoke, VA 24018

Answerfone
P.O. Box 1000, Dept. 94
Memphis, TN 38148

Apartments for Rent
75 Remittance Driver #1705
Chicago, IL 60675-1705

Betty's Glass Co.
3737 Outland Road
Memphis, TN 38118

Bob Patterson, Shelby County Trustee
P.O. Box 2751
Memphis, TN 38101-2751

Bowes Sewer & Drain Service LLC
P.O. Box 647
Arlington, TN 38002

Brunts' Wallcovering Service
156 Haynes Park Drive
Nashville, TN 37218

Bugs-N-Stuff dba Somar Pest Control
P.O. Box 1537
Millington, TN 38083

Carpet Depot USA d/b/a Fir State Carpets
c/o Frank Holloman, Esq.
242 Poplar Avenue
Memphis, TN 38103

Carpet Restore
P.O. Box 548
Southaven, MS 38671

Carpet Savers of Memphis, LLC
P.O. Box 728
Dallas, GA 30132

C.H. Harwell Eviction Server
8314 Montego Place, South
Cordova, TN 38016

Divine Electrical, Inc.
P.O. Box 30522
Memphis, TN 38130

Dyno Sewer
5300 Mendenhall Park Place
Memphis, TN 38115-5409

El Grafico, Inc.
4772 Summer Avenue
Memphis, TN 38122

Equifax Information Services, LLC
P.O. Box 4472
Atlanta, GA 30302

Floorserve, Inc.
Evan Nahmias, Esq.
McDonald Kuhn, PLLC
Pembroke Square
119 S. Main Street, Suite 400
Memphis, TN 38103

DAL, Inc. (Home Depot #2425165)
300 East Madison Avenue
Clifton Heights, PA 19018-0162

Haas Publishing Companies, Inc.
c/o Howard R. Peppel, Esq.
474 Perkins Extended, Suite 205
Memphis, TN 38117

Hughes/Century Maintenance Supply
c/o Howard R. Peppel, Esq. (Ref. G25018)
474 Perkins Extended, Suite 205
Memphis, TN 38117

Hughes Supply, Inc.
c/o Howard R. Peppel
474 Perkins Extended
Suite 205
Memphis, TN 38117

IKON Office Solutions
6700 Sugarloaf Parkway
Duluth, GA 30097

Joan Lindquist
Credit Department (Customer # 2425165)
The Home Depot Supply
P.O. Box 509055
San Diego, CA 92150

Lion Distributing, Inc.
P.O. Box 565
Reisterstown, MD 21136-0565

Maintenance Free
6007 Bishopdale Cove
Memphis, TN 38141

Maintenance USA (Acct# 3070781)
P.O. Box 404295
Atlanta, GA 30384-4295

Memphis City Wide Security
8607 Craven Road
Arlington, TN 38002

Memphis Light, Gas & Water Division
220 S. Main Street, Room 529
Memphis, TN 38103
Attn: Legal Department

Nazar Siddig
3399 Crazyhorse Drive, Apt. #2
Memphis, TN 38118

NCO Financial Systems (Birch Telecom)
P.O. Box 4903 (Account # BP 4485)
Trenton, NJ 08650-4903

Novacopy, Inc.
5520 Shelby Oaks Drive
Memphis, TN 38134

NuEra Pest Control, Inc.
P.O. Box 181369
Memphis, TN 38181

Office-Max Contract, Inc.
c/o Continental Commercial Group
317 S. Brand Blvd.
Glendale, CA 91204-1701
Acct. # 461510

Ollie & Sons Sewer & Drains Service
7250 N. Old Farm Road
Memphis, TN 38125
Attention: Ollie Voss

On Time Iron Works
3630 Parklake Drive #1
Memphis, TN 38118

Professional Carpet Services
4151 Ridgemoor Avenue
Memphis, TN 38118

Quick Dry Carpet Cleaning
1347 Greentree Valley, #1
Memphis, TN 38119

Santo Lawn Care
3352 McKenzie Street
Memphis, TN 38118

Siano Appliance Distribution
c/o Mendelson Law Firm
P.O. Box 17235
Memphis, TN 38187-0235

SKO – Brenner-American
P.O. Box 9320
841 Merrick Road
Baldwin, NY 11510-9320

Stock Blinds Direct
Williams, Babbit & Weisman, Inc.
5255 North Federal Highway, 3rd Floor
Boca Raton, FL 33487
Attn: Jeffrey Seigl

Swimming Pool Application (Est. #23507)
State Department of Health
State of Tennessee
P.O. Box 23090
Nashville, TN 37202

Taliafaro, Inc.
1227 Ninth Avenue North
Nashville, TN 37208

Marc T. McNamee, Esq.
Neal and Harwell, PLC
Suite 2000, One Nashville Place
150 4th Avenue North
Nashville, TN 37219-2498

Todmost Chemical & Paper
3394 Winchester Road
Memphis, TN 38118

TransUnion Rental Screening (Invoice # 03647428)
13591 Collections Center Drive
Chicago, IL 60693

Wells Fargo Financial Leasing
Account # 001-4005473
P.O. Box 6434
Carol Stream, IL 60197-6434

Yellow Business Directories
245 8th Avenue, Suite 863
New York, NY 10011

CME-Corners, Inc. (Attention: Legal Department)
4466 Elvis Presley Boulevard, Suite 300
Memphis, TN 38116

Regions Bank, N.A., as Indenture Trustee
Corporate Trust Department (Attention: Susan
Baker)
401 Union Street, 11th Floor
Nashville, TN 37219

Dr. Annie J. Carter
2513 Oak Forrest Drive
Antioch, TN 37013

Farris Mathews Branam Bobango Hellen & Dunlap
PLC
(Attn: James E. Bailey III)
1 Commerce Square, Suite 2000
Memphis, TN 38103

The Health, Educational and Housing Facility
Board of the County of Shelby, Tennessee
c/o Brian Kuhn, County Attorney
160 North Main Street, Suite 801
Memphis, TN 38103

The Winchester Law Firm (Attn: Stephen L.
Anderson)
6060 Poplar Avenue, Suite 295
P.O. Box 17236
Memphis, Tennessee 38187

/s/ Timothy G. Niarhos

Timothy G. Niarhos

EXHIBIT 1

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

| | | |
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| REGIONS BANK, |) | |
| as Indenture Trustee, |) | |
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| 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. |) | |

**ORDER AUTHORIZING RECEIVER TO OBTAIN LOAN
TO FINANCE CERTAIN RECEIVERSHIP EXPENSES**

This matter came before the Court on the Receiver’s Motion to Obtain Loan to Finance Certain Receivership Expenses (the “Financing Motion”) filed herein by Cumberland & Ohio Co. of Texas and James A. (“Buddy”) Skinner, together as receiver (the “Receiver”). This Court, having reviewed the pleadings, including that certain Memorandum in Support of Receiver’s Motion to Obtain Loan to Finance Certain Receivership Expenses (including exhibits thereto, the “Memorandum”), and being fully advised on the premises, finds as follows:

1. Unless otherwise indicated herein, all capitalized terms in this Order have the same meaning ascribed to them in the Memorandum.

2. Trustee is a banking corporation organized under the laws of Alabama with its designated corporate trust office located in Little Rock, Arkansas. Trustee, as the indenture trustee, is the holder of a first deed of trust lien against certain Collateral (as defined in the Receiver Order), which includes without limitation that low-income housing facility known as

The Corners Apartments, located at 4150 Winchester Road, Memphis, Tennessee, and the revenues generated thereby under that certain Lease Agreement (as defined in the Receiver Order). Trustee holds these liens against the Collateral to secure the repayment of amounts owed to Trustee and certain bondholders pursuant to that certain Trust Indenture (as defined in the Receiver Order) and that certain Deed of Trust (as defined in the Receiver Order), each among The Health, Educational and Housing Facility Board of the County of Shelby, Tennessee (the “Issuer”), CME-Corners, Inc. (“CME-Corners”), and Trustee.

3. Pursuant to paragraphs D(8) and D(30) of the Receiver Order, the Receiver has the authority to obtain the Financing, but requires this Court’s approval for priming the lien of the Trustee under the Bond Documents.

4. As set forth in that certain order of this court, dated September 1, 2006 (the “Sale Procedures Order”), in light of the fact that expenses to operate the Collateral will likely outpace revenues, a Receiver Sale is in the best interests of the receivership estate and the creditors and is supported by sound business justifications. A timely Receiver Sale of a going concern project is necessary at this time and will result in greater distribution to creditors than any other course of action.

5. The Financing is necessary to preserve the value of the Collateral and to allow a Receiver Sale of the Collateral to be on a going-concern basis. As a result of the Receiver’s reasonable investigation and negotiations, the terms and conditions of the Financing, as set forth below (including the priming feature), are reasonable and appropriate.

6. Good cause exists for such Financing and approval thereof, and the Receiver and the Trustee have acted in good faith with respect to such Financing and the Financing Motion.

7. Proper and sufficient notice was given of the Financing Motion and the hearing thereon. [No bondholder or other party appeared to object and it appears reasonable, under the circumstances, that the Trustee does not object to the Financing or the priming of the Trustee's lien under the Bond Documents.]

8. The requirements of Rule LR 7.2 of the Local Rules of the United States District Court for the Western District of Tennessee have been satisfied in all respects regarding the Financing Motion and the Memorandum.

IT IS, THEREFORE, ORDERED THAT:

A. The Financing Motion is hereby granted and the Financing is approved, on the following terms and conditions:

(i). The Trustee, either in its lending capacity or its representative capacity (the "Lender"), agrees to make available certain funds, up to \$50,000.00 (the "Funds") for the Receiver's expenses of administration of the receivership estate, as set forth on the Budget annexed to the Memorandum as Exhibit B (the "Budget").

(ii) The Lender shall retain sole and absolute discretion of what amount, if any, of the Funds are advanced to the Receiver. By entry of this Financing Order, the Receiver is not required to borrow any of the Funds, but may borrow same if circumstances, in its sole and absolute discretion, warrant.

(iii) The Receiver shall request in writing draws of Funds from the Lender, which request shall include documentation as to the use of the Funds and a revised form of budget that reflects the application of such requested Funds in the categories set forth in the Budget. The written requests combined with the Lender's wire

receipts, together with this Financing Order, shall be deemed to be sufficient documentation of the loan.

(iv) Any Funds drawn and disbursed to the Receiver shall bear interest at a rate of Prime + 2.00% per annum, compounding daily (based on a 360-day year and 30-day months), for as long as such amounts remain outstanding. The aforementioned “Prime” rate shall be as published in the *Wall Street Journal*.

(v) This Financing Order shall subordinate the Trustee’s lien under the Bond Documents in all respects up to a total amount of \$50,000 plus any outstanding interest on account of the Financing, and shall be given priority over the claims of any other creditor against the Collateral, whether such claim is secured or unsecured. The Lender shall not be required to file any financing statement or deed of trust to perfect such priming lien, as this Financing Order shall be deemed sufficient to perfect such priming lien.

(vi) Upon consummation of any Receiver Sale and receipt of the proceeds of such Sale, the Lender shall be repaid all principal and interest borrowed by the Receiver ahead of any and all other amount distributed by the Receiver (including payments of any commissions or fees), and the Bond Documents (as defined in the Receiver Order) and any order approving such Sale shall be superseded and amended with respect to such distribution priority. The Receiver shall make immediate payment of any such outstanding amounts to the Lender upon receipt of any proceeds of any Receiver Sale, and upon full and final payment, as acknowledged by the Lender in writing, the priming lien granted in the preceding subsection shall discontinue and be deemed to be released by the Lender.

B. To the extent there are any conflicts between the terms and conditions of the Financing contained in this Order with those contained in the Memorandum or any subsequent Order of this Court (except as expressly indicated in such subsequent Order), this Order shall control.

C. Notwithstanding any other Orders of the Court (including without limitation the Sale Procedures Order or any order confirming a Receiver Sale), the Receiver Sale proceeds shall be applied and distributed as follows:

(i) First, payment to the Lender of any outstanding amounts, including any principal, interest, in connection with the Financing, which payment shall be made immediately upon receipt of the proceeds of any Receiver Sale by the Receiver.

(ii) Second, the remaining sale proceeds shall be distributed in accordance with further Court Order, including without limitation the Sale Procedures Order or any order confirming a Receiver Sale.

D. The terms of this Order and the Financing shall be binding upon CME-Corners, the Receiver, those bondholders (or their representatives) who receive notice of the Motion (including through any correspondence from the Trustee to such bondholders), their creditors, parties with any claims against CME-Corners and the Collateral, and other parties in interest, and any successors of such parties.

SIGNED this ____ day of _____, 2006.

Jon Phipps McCalla
United States District Court Judge

Submitted for Entry:

/s/ Timothy G. Niarhos

Samuel K. Crocker (BPR #6094)

Timothy G. Niarhos (BPR #14428)

CROCKER & NIARHOS

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Attorneys for the Receiver

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

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

**MEMORANDUM IN SUPPORT OF RECEIVER’S EXPEDITED MOTION
TO OBTAIN LOAN TO FINANCE CERTAIN RECEIVERSHIP EXPENSES
AND TO SET HEARING**

TO THE HONORABLE JON PHIPPS MCCALLA,
UNITED STATES DISTRICT COURT JUDGE:

Cumberland & Ohio Co. of Texas and its President, James A. (“Buddy”) Skinner, together as receiver (the “Receiver”) submit this Memorandum (the “Memorandum”) in support of its Motion to Obtain Loan to Finance Certain Receivership Expenses and to Set Hearing (the “Motion”). In support of the Motion, the Receiver states as follows:

FACTS

1. On April 21, 2006, Trustee filed its Verified Complaint For Appointment Of Receiver, Injunctive Relief, and Damages (the “Verified Complaint”). In support of this Motion, the Receiver hereby incorporates by reference the averments set forth in the Verified Complaint. Specific references to the Verified Complaint will hereafter be designated as (“Compl. ¶ ___”).

2. In addition, the Receiver further relies and incorporates by reference the averments set forth in the Declaration of James A. Skinner, President of the Receiver (the

“Receiver’s Declaration”), which declaration is attached as **Exhibit A** to this Memorandum.

A. Background

3. The Health, Educational and Housing Facility Board of the County of Shelby, Tennessee (the “Issuer”) is the record title fee owner, and CME-Corners, Inc. (“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

4. On or about December 1, 1996, Issuer and First Commercial Trust Company, N.A., as the original indenture trustee, entered into the Trust Indenture, which, *inter alia*, authorized the Issuer to issue \$4,720,000 of Multifamily Housing Revenue Bonds (The Corners Apartments Project) in four separate series, as set forth more fully in the Verified Complaint (the “Bonds”).² The proceeds of the Bonds were used to finance the acquisition and rehabilitation of the Project by CME-Corners. (Compl. ¶ 8).

5. 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.³ 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

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.

² A true and correct copy of the Trust Indenture is attached as Exhibit A to the Verified Complaint.

³ A true and correct copy of the Lease Agreement is attached as Exhibit B to the Verified Complaint.

Agreement was assigned to First Commercial Trust Company, N.A., as indenture trustee to further secure the Bonds. (Compl. ¶ 9).

6. 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. (Compl. ¶ 11). 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 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 Bonds (the “Deed of Trust”).⁴ (Compl. ¶ 10)

7. The Trustee has succeeded First Commercial Trust Company, N.A., as indenture trustee. (Compl. ¶ 13).

8. CME-Corners and the Issuer have defaulted on their respective obligations owed to Trustee and the bondholders (the “Bondholders”) under the Bond Documents via, as set forth more fully in the Complaint, CME-Corners’ failure to make payments due, and to comply with certain obligations and covenants under the Bond Documents, including the covenant to insure the Project, which has put both the Bondholders’ investments and the residents’ well-being at risk. (Compl. ¶¶ 15-20).

9. Contemporaneous with the Verified Complaint, on April 21, 2006, Trustee filed its Expedited Motion for Appointment of Receiver, Injunctive Relief, to Set Bond, and to Set Hearing (the “Receiver Motion”). By Order dated May 4, 2006, as amended on May 9, 2006

⁴ A true and correct copy of the Deed of Trust is attached as Exhibit C to the Verified Complaint.

(the “Receiver Order”), after a hearing on the Receiver Motion, this Court (i) appointed Cumberland & Ohio Co. of Texas as Receiver over the Collateral, which includes without limitation the Project, and (ii) imposed a preliminary injunction against interference with the Receiver’s control over the Collateral.

B. Projected Cash Shortfall.

10. As set forth in the Receiver’s Declaration and in the Receiver’s periodic reports (each a “Receiver’s Report”) filed pursuant to the Receiver Order, the Collateral’s cash flow does not meet or exceed the expenses to operate the Collateral. In fact, the most recent budget developed by the Receiver indicates that the cash accounts maintained by the Receiver will be exhausted as early as October, 2006.⁵

11. On August 24, 2006, the Receiver filed its motion to establish procedures (the “Sale Procedures”) for the sale (the “Receiver Sale”) of the Collateral by auction (the “Auction”). On September 1, 2006, this Court, without a hearing, entered an order (the “Sale Procedures Order”) approving the motion and establishing such Sale Procedures.

12. As set forth in the Receiver’s Declaration, to the extent the Receiver Sale/Auction process is commenced in a timely manner, the Receiver estimates that at least \$20,000 would be required to carry the receivership administration through October, which is the earliest possible month in which the Auction and/or Receiver Sale could possibly go forward. To the extent that a Receiver Sale is not consummated until November, the Receiver estimates that at least \$30,000 would be required to carry the receivership administration through November.

13. As set forth in the Receiver’s Declaration, the Receiver believes that if the Collateral is operating it may bring a higher price than if it is not operating.

⁵ Although the Receiver is entitled to take its own fees and expenses as they are accrued pursuant to paragraphs F and G of the Receiver Order, the Receiver has not yet taken its fees and expenses for the month May, in the amount

14. As set forth in the Receiver's Declaration, Regions Bank, either in its lending capacity or its representative capacity (the "Lender"), is ready, willing and able to provide such financing, on the terms and conditions contained herein.

RELIEF REQUESTED

15. The Receiver requests that the Receiver be permitted to borrow certain funds, in an amount up to \$50,000.00 (the "Financing"), from the Lender on the terms and conditions set forth in the proposed Order Approving Receiver's Financing Certain Receivership Expenses (the "Financing Order") annexed to the Motion as Exhibit 1 and incorporated herein by reference. In summary, Regions would provide the Receiver with a revolving line of credit in an amount of up to \$50,000 for operating expenses related to the Collateral, and to the extent such loan is drawn pursuant to the Court's order, the line of credit would be secured by a lien against the Collateral, which lien would be superior to the claims of any other creditor, regardless of secured status.

16. The Receiver further requests, in light of the numerous bondholders that will be notified of this motion by the Trustee, that the Court set a hearing for the Motion at a date and time that provides adequate response times for such bondholders but also allows quick resolution of the Motion as a result of the pressing need for operating capital.

ARGUMENT

A. The Receiver's Power to Obtain the Financing.

17. The Receiver has the power and authority to obtain the Financing. Paragraph D of the Receiver Order provides, in relevant part:

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:

of \$28,599.25. Pursuant to the Sale Procedures Order (defined herein), the Receiver intends to recover such fees and expenses upon consummation of a sale of the Collateral.

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

(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.

(Receiver Order, ¶¶ D(8) & (30).)

18. Although obtaining the Financing is well within the Receiver's general powers and authority under the Receiver Order, the Receiver seeks this Court's approval of such Financing, as incurring additional indebtedness on a priming basis is not specifically within the powers granted in the Receiver Order nor in the ordinary course of business, especially given the Trustee's priority deed of trust lien and the terms of the Bond Documents.

B. The Trustee's Ability to Lend the Funds.

19. It is generally understood that a trustee is obligated to protect trust assets:

A trustee is bound to protect the trust property in every reasonable manner during the continuance of the trust, and he or she has the power and duty to do all acts necessary and expedient for this purpose, or any acts incidental thereto. He or she must take such action with respect to the trust property as will be most conducive to its welfare, such as to see that it is productive or profitably employed, and take every reasonable and possible means of reducing any loss or decrease in value.

C.J.S., Trusts § 374 (2006) (citations omitted); see also Bogert on Trusts, § 543(L) (2005)

(recognizing a trustee's ability to loan funds, with interest, to the trust when advantageous to the trust). In addition, as set forth in Receiver's Declaration, it is consistent with industry practice for an indenture trustee to loan funds to the trust when so required to protect the value of the underlying collateral. Accordingly, it is appropriate for the Lender to provide the Financing.

20. Moreover, the Lender is permitted to enter into financial transactions, such as the Financing, with CME-Corners, i.e. the Receiver. Section 9.8 of the Trust Indenture provides, in relevant part:

The Trustee or the Paying Agent, in its individual capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction

with the Issuer or the Lessee [CME-Corners], and may act as depositary, trustee or agent for any committee or body of Owners secured hereby or other obligations of the Issuer or the Lessee as freely as if it did not act in any capacity hereunder.

(Trust Indenture, § 9.8.) In light of the priming nature and other features of the Financing, including the imposition of interest, the Receiver seeks approval of the Financing as a proper transaction within the terms of the Trust Indenture.

C. Terms and Conditions of the Financing.

21. Subject to entry of the Financing Order, this Memorandum, together with the Financing Order itself, constitutes the agreement between the Receiver and the Lender with respect to the Financing.

22. The Lender agrees to make available certain funds, up to \$50,000.00 (the "Funds") for the Receiver's expenses of administration of the receivership estate, as set forth on the Budget annexed hereto as **Exhibit B**, subject to the following terms and conditions:

A. The Lender shall retain sole and absolute discretion of what amount, if any, of the Funds are advanced to the Receiver. By entry of the Financing Order, the Receiver is not required to borrow any of the Funds, but may borrow same if circumstances, in its sole and absolute discretion, warrant.

B. The Receiver shall request in writing draws of Funds from the Lender, which request shall include documentation as to the use of the Funds and a revised form of budget that reflects the application of such requested Funds in the categories set forth on **Exhibit B**. The written requests combined with the Lenders wire receipts, together with the Financing Order, shall be deemed to be sufficient documentation of the loan.

C. Any Funds drawn and disbursed to the Receiver shall bear interest at a rate of Prime + 2.00% per annum, compounding daily (based on a 360-day year and 30-day

months), for as long as such amounts remain outstanding. The aforementioned "Prime" rate shall be as published in the *Wall Street Journal*.

D. The Financing Order shall subordinate the Trustee's lien under the Bond Documents in all respects up to a total amount of \$50,000 plus any outstanding interest on account of the Financing, and shall be given priority over the claims of any other creditor against the Collateral, whether such claim is secured or unsecured. The Lender shall not be required to file any financing statement or deed of trust to perfect such priming lien, as the Financing Order shall be deemed sufficient to perfect such priming lien.

E. Upon consummation of any Receiver Sale and receipt of the proceeds of such Sale, the Lender shall be repaid all principal and interest borrowed by the Receiver ahead of any and all other amount distributed by the Receiver (including payments of any commissions or fees), and the Bond Documents (as defined in the Receiver Order) and Sale Approval Order shall be superseded and amended with respect to such distribution priority. The Receiver shall make immediate payment of any such outstanding amounts to the Lender upon receipt of any proceeds of any Receiver Sale, and upon full and final payment, as acknowledged by the Lender in writing, the priming lien granted in the preceding subsection shall discontinue and be deemed to be released by the Lender.

23. As set forth in the Receiver's Declaration, the Receiver has determined the terms and condition of the Financing to be fair and reasonable. The Receiver has further determined that obtaining the Financing from Regions Bank (i) reduces the costs of documenting the transaction, (ii) eliminates the need for a lender to familiarize itself with the transaction, and (iii) is convenient given the Receiver's operating accounts are currently with Regions as a result of a branch office's proximity to the project.

D. Obtaining the Financing is in the Best Interest of Creditors.

24. As set forth in the Receiver's Declaration, a Receiver Sale is required in order to protect the value of the Collateral and is in the best interests of the receivership estate and creditors thereof – the value of the Collateral would likely continue to deteriorate if a Receiver Sale is not consummated on a timely basis. The Sale Procedures have been designed to provide such a timely resolution as well as generate sufficient interest in the Collateral as to maximize the proceeds of any Receiver Sale.

25. If the Financing is not obtained, then the Receiver would be forced to discontinue operation of the Collateral, which would put both the Collateral and the residents' well-being at risk. Similarly, the Financing will enable the Receiver to sell the Collateral, including the Project, as a going-concern, and thus realize a greater return for the receivership estate and its creditors. Finally, maintaining basic services and upkeep will enhance the value of the Collateral and likely enhance the ultimate price received for it.

26. As set forth above, to the extent the Financing is utilized by the Receiver, the proceeds of any Receiver Sale will first be applied to repaying any outstanding amounts of the Financing, with the remaining proceeds available for distribution as set forth in the Sale Procedures Order and/or any order confirming any Receiver Sale itself.

27. Thus, the Financing will allow the Receiver to consummate a Receiver Sale and realize proceeds for distribution that far outweighs any detriment to the creditors of the receivership estate.

CONCLUSION

28. Based on the foregoing, the Receiver submits that the entry of the Financing Order is a prudent and necessary course of action that is within the Receiver's powers and should be approved on the terms and conditions set forth in the Financing Order.

WHEREFORE, for the reasons set forth herein, the Receiver requests that this Court set an expedited hearing for the Motion, grant this Motion, enter the Financing Order granting approval for the Receiver to obtain the Financing on the terms and conditions set forth in the Financing Order, and grant all further relief that the Court deems proper.

Respectfully submitted,

/s/ Timothy G. Niarhos

Samuel K. Crocker (BPR #6094)

Timothy G. Niarhos (BPR #14428)

CROCKER & NIARHOS

Suite 2720, Renaissance Tower

611 Commerce Street

Nashville, TN 37203

615-726-3322 – Telephone

615-726-6330 – Facsimile

skctrustee@aol.com/tim@skctrustee.com

Attorneys for the Receiver

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Memorandum (including exhibits) to be served via U.S. Mail, postage prepaid, upon the following named parties to this action on September 15, 2006:

ACE Electric, Inc.
P.O. Box 348
Ellendale, TN 38029

ADP Security Services, Inc.
P.O. Box 371967
Pittsburgh, PA 15250-7967

AllState Group – Claims
National Property Sufro
3800 Electric Road, Suite 301
Roanoke, VA 24018

Answerfone
P.O. Box 1000, Dept. 94
Memphis, TN 38148

Apartments for Rent
75 Remittance Driver #1705
Chicago, IL 60675-1705

Betty's Glass Co.
3737 Outland Road
Memphis, TN 38118

Bob Patterson, Shelby County Trustee
P.O. Box 2751
Memphis, TN 38101-2751

Bowes Sewer & Drain Service LLC
P.O. Box 647
Arlington, TN 38002

Brunts' Wallcovering Service
156 Haynes Park Drive
Nashville, TN 37218

Bugs-N-Stuff dba Somar Pest Control
P.O. Box 1537
Millington, TN 38083

Carpet Depot USA d/b/a Fir State Carpets
c/o Frank Holloman, Esq.
242 Poplar Avenue
Memphis, TN 38103

Carpet Restore
P.O. Box 548
Southaven, MS 38671

Carpet Savers of Memphis, LLC
P.O. Box 728
Dallas, GA 30132

C.H. Harwell Eviction Server
8314 Montego Place, South
Cordova, TN 38016

Divine Electrical, Inc.
P.O. Box 30522
Memphis, TN 38130

Dyno Sewer
5300 Mendenhall Park Place
Memphis, TN 38115-5409

El Grafico, Inc.
4772 Summer Avenue
Memphis, TN 38122

Equifax Information Services, LLC
P.O. Box 4472
Atlanta, GA 30302

Floorserve, Inc.
Evan Nahmias, Esq.
McDonald Kuhn, PLLC
Pembroke Square
119 S. Main Street, Suite 400
Memphis, TN 38103

DAL, Inc. (Home Depot #2425165)
300 East Madison Avenue
Clifton Heights, PA 19018-0162

Haas Publishing Companies, Inc.
c/o Howard R. Peppel, Esq.
474 Perkins Extended, Suite 205
Memphis, TN 38117

Hughes/Century Maintenance Supply
c/o Howard R. Peppel, Esq. (Ref. G25018)
474 Perkins Extended, Suite 205
Memphis, TN 38117

Hughes Supply, Inc.
c/o Howard R. Peppel
474 Perkins Extended
Suite 205
Memphis, TN 38117

IKON Office Solutions
6700 Sugarloaf Parkway
Duluth, GA 30097

Joan Lindquist
Credit Department (Customer # 2425165)
The Home Depot Supply
P.O. Box 509055
San Diego, CA 92150

Lion Distributing, Inc.
P.O. Box 565
Reisterstown, MD 21136-0565

Maintenance Free
6007 Bishopdale Cove
Memphis, TN 38141

Maintenance USA (Acct# 3070781)
P.O. Box 404295
Atlanta, GA 30384-4295

Memphis City Wide Security
8607 Craven Road
Arlington, TN 38002

Memphis Light, Gas & Water Division
220 S. Main Street, Room 529
Memphis, TN 38103
Attn: Legal Department

Nazar Siddig
3399 Crazyhorse Drive, Apt. #2
Memphis, TN 38118

NCO Financial Systems (Birch Telecom)
P.O. Box 4903 (Account # BP 4485)
Trenton, NJ 08650-4903

Novacopy, Inc.
5520 Shelby Oaks Drive
Memphis, TN 38134

NuEra Pest Control, Inc.
P.O. Box 181369
Memphis, TN 38181

Office-Max Contract, Inc.
c/o Continental Commercial Group
317 S. Brand Blvd.
Glendale, CA 91204-1701
Acct. # 461510

Ollie & Sons Sewer & Drains Service
7250 N. Old Farm Road
Memphis, TN 38125
Attention: Ollie Voss

On Time Iron Works
3630 Parklake Drive #1
Memphis, TN 38118

Professional Carpet Services
4151 Ridgemoor Avenue
Memphis, TN 38118

Quick Dry Carpet Cleaning
1347 Greentree Valley, #1
Memphis, TN 38119

Santo Lawn Care
3352 McKenzie Street
Memphis, TN 38118

Siano Appliance Distribution
c/o Mendelson Law Firm
P.O. Box 17235
Memphis, TN 38187-0235

SKO – Brenner-American
P.O. Box 9320
841 Merrick Road
Baldwin, NY 11510-9320

Stock Blinds Direct
Williams, Babbit & Weisman, Inc.
5255 North Federal Highway, 3rd Floor
Boca Raton, FL 33487
Attn: Jeffrey Seigl

Swimming Pool Application (Est. #23507)
State Department of Health
State of Tennessee
P.O. Box 23090
Nashville, TN 37202

Taliafaro, Inc.
1227 Ninth Avenue North
Nashville, TN 37208

Marc T. McNamee, Esq.
Neal and Harwell, PLC
Suite 2000, One Nashville Place
150 4th Avenue North
Nashville, TN 37219-2498

Todmost Chemical & Paper
3394 Winchester Road
Memphis, TN 38118

TransUnion Rental Screening (Invoice # 03647428)
13591 Collections Center Drive
Chicago, IL 60693

Wells Fargo Financial Leasing
Account # 001-4005473
P.O. Box 6434
Carol Stream, IL 60197-6434

Yellow Business Directories
245 8th Avenue, Suite 863
New York, NY 10011

CME-Corners, Inc. (Attention: Legal Department)
4466 Elvis Presley Boulevard, Suite 300
Memphis, TN 38116

Regions Bank, N.A., as Indenture Trustee
Corporate Trust Department (Attention: Susan
Baker)
401 Union Street, 11th Floor
Nashville, TN 37219

Dr. Annie J. Carter
2513 Oak Forrest Drive
Antioch, TN 37013

Farris Mathews Branam Bobango Hellen & Dunlap
PLC
(Attn: James E. Bailey III)
1 Commerce Square, Suite 2000
Memphis, TN 38103

The Health, Educational and Housing Facility
Board of the County of Shelby, Tennessee
c/o Brian Kuhn, County Attorney
160 North Main Street, Suite 801
Memphis, TN 38103

The Winchester Law Firm (Attn: Stephen L.
Anderson)
6060 Poplar Avenue, Suite 295
P.O. Box 17236
Memphis, Tennessee 38187

/s/ Timothy G. Niarhos

Timothy G. Niarhos

EXHIBIT A

**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. |) | |

**DECLARATION OF JAMES A SKINNER IN SUPPORT OF RECEIVER’S MOTION
TO OBTAIN LOAN TO FINANCE CERTAIN RECEIVERSHIP EXPENSES**

I, James A. (“Buddy”) Skinner, an adult resident of Davidson County, Tennessee, states under penalty of perjury the following:

1. I have personal knowledge of the items described herein.
2. I am the President of Cumberland & Ohio Co. of Texas, which is receiver in the above-captioned action (the “Receiver”) with respect to the Collateral (as defined in the Motion below). As President, I am authorized to make this statement on behalf of the Receiver in support of its Motion to Obtain Loan to Finance Certain Receivership Expenses (the “Motion”).
3. The Collateral’s cash flow does not meet or exceed the expenses to operate the Collateral. In fact, the most recent budget developed by the Receiver, which is attached as Exhibit B to the Memorandum, indicates that the cash accounts maintained by the Receiver will be exhausted as early as the middle of October, 2006.
4. Although the Receiver is entitled to take its own fees and expenses as they are accrued, pursuant to paragraphs F and G of the Order appointing the Receiver (the “Receiver

Order”), the Receiver has not yet taken its fees and expenses for the month of May, in the amount of \$28,599.25. The Receiver intends to recover such fees and expenses upon consummation of a sale of the Collateral. As a result the Receiver believes that it will have sufficient funds to operate through September and into the middle of October, but not beyond that point.

5. On August 24, 2006, the Receiver filed its motion to establish procedures (the “Sale Procedures”) for the sale (the “Receiver Sale”) of the Collateral by auction (the “Auction”), which motion the Court granted without a hearing on September 1, 2006.

6. To the extent the Receiver Sale/Auction process is commenced in a timely manner, the Receiver estimates that at least \$20,000 would be required to carry the receivership administration through the end of October, which is the earliest possible month in which the Auction and/or Receiver Sale could possibly go forward in accordance with the Sale Procedures. To the extent that a Receiver Sale is not consummated until November, the Receiver estimates that at least \$30,000 would be required to carry the receivership administration through November.

7. The Receiver believes that if the Collateral is operating it may bring a higher price at a Receiver Sale than if it is not operating.

8. The Receiver has discovered that Regions Bank is ready, willing and able to provide such financing, on the terms and conditions contained in the Motion (the “Financing”), which terms the Receiver has determined to be fair and reasonable. The Receiver has further determined that obtaining the Financing from Regions Bank (i) reduces the costs of documenting the transaction, (ii) eliminates the need for a lender to familiarize itself with the transaction, and (iii) is convenient given the Receiver’s operating accounts are currently with Regions as a result of a branch office’s proximity to the project.

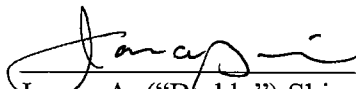
9. Based on the Receiver's prior experience in similar situations, it is consistent with industry practice for an indenture trustee to loan funds to the trust when so required to protect the value of the underlying collateral.

10. A Receiver Sale is required in order to protect the value of the Collateral and is in the best interests of the receivership estate and creditors thereof – the value of the Collateral would likely continue to deteriorate if a Receiver Sale is not consummated on a timely basis. The Sale Procedures have been designed to provide such a timely resolution as well as generate sufficient interest in the Collateral as to maximize the proceeds of any Receiver Sale.

11. If the Financing is not obtained, then the Receiver would be forced to discontinue operation of the Collateral, which would put both the Collateral and the residents' well-being at risk. Similarly, the Financing will enable the Receiver to sell the Collateral, including the Project, as a going-concern, and thus realize a greater return for the receivership estate and its creditors. Finally, maintaining basic services and upkeep will enhance the value of the Collateral and likely enhance the ultimate price received for it.

12. The Receiver believes that the entry of the Financing Order and obtaining financing before the middle of October, 2006, is a prudent and necessary course of action that is within the Receiver's powers and should be approved on the terms and conditions set forth in the proposed Order approving the Financing.

FURTHER DECLARANT SAYETH NOT.


James A. ("Buddy") Skinner

Nashville, Tennessee
September 15, 2006

EXHIBIT B

CME - Corners, Inc.
Budgets
September, October, and November 2006

| | <u>September 2006</u> | <u>October 2006</u> | <u>November 2006</u> |
|--|-----------------------|---------------------|----------------------|
| Opening balance | \$ 48,930.69 | \$ 16,951.69 | \$ 4,472.69 |
| Cash receipts: | | | |
| Rental income | 11,000.00 | 11,500.00 | 11,500.00 |
| Other income | - | - | - |
| Priority loan | - | 20,000.00 | 30,000.00 |
| | <u>11,000.00</u> | <u>31,500.00</u> | <u>41,500.00</u> |
| Total cash receipts | | | |
| | <u>11,000.00</u> | <u>31,500.00</u> | <u>41,500.00</u> |
| Cash disbursements: | | | |
| Petty Cash | 525.00 | 525.00 | 525.00 |
| Utilities | 4,500.00 | 4,500.00 | 4,500.00 |
| ADT Security | 80.00 | 80.00 | 80.00 |
| MCI/Phone | 150.00 | 150.00 | 150.00 |
| Security services-Memphis city wide | 1,889.00 | 1,889.00 | 1,889.00 |
| Lawn service | 1,600.00 | 1,600.00 | 1,600.00 |
| Payroll and payroll taxes | 5,500.00 | 5,500.00 | 5,500.00 |
| General maintenance | 800.00 | 800.00 | 800.00 |
| Late fees and bank charges | 50.00 | 50.00 | 50.00 |
| Background checks/credit reports | 125.00 | 125.00 | 125.00 |
| Property and General liability insurance | 8,760.00 | 8,760.00 | 8,760.00 |
| Accounting and legal | 7,000.00 | 8,000.00 | 8,000.00 |
| Receiver expenses | 12,000.00 | 12,000.00 | 12,000.00 |
| | <u>42,979.00</u> | <u>43,979.00</u> | <u>43,979.00</u> |
| Total cash disbursements | | | |
| | <u>42,979.00</u> | <u>43,979.00</u> | <u>43,979.00</u> |
| Net cash receipts (disbursements) | <u>(31,979.00)</u> | <u>(12,479.00)</u> | <u>(2,479.00)</u> |
| | | | |
| Closing balance | <u>\$ 16,951.69</u> | <u>\$ 4,472.69</u> | <u>\$ 1,993.69</u> |