

ABRAMS INDUSTRIES INC

Form 10-Q

December 15, 2003

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SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q
QUARTERLY REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

For the quarter ended October 31, 2003

Commission file number 0-10146

ABRAMS INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

Georgia

(State or other jurisdiction of
incorporation or organization)

58-0522129

(I.R.S. Employer identification No.)

1945 The Exchange, Suite 300, Atlanta, GA 30339-2029

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (770) 953-0304

Former name, former address, former fiscal year, if changed since last report: N/A

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes No

The number of shares of \$1.00 par value Common Stock of the Registrant outstanding as of November 30, 2003, was 2,914,051.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

ABRAMS INDUSTRIES, INC.
CONSOLIDATED BALANCE SHEETS
(UNAUDITED)

| | <u>October 31, 2003</u> | <u>April 30, 2003</u> |
|--|-------------------------|-----------------------|
| <u>ASSETS</u> | | |
| CURRENT ASSETS: | | |
| Cash and cash equivalents | \$ 3,786,193 | \$ 5,157,639 |
| Receivables (Note 4) | 10,189,078 | 12,902,281 |
| Less: Allowance for doubtful accounts | (511,459) | (492,045) |
| Assets of discontinued operations (Note 5) | | 102,146 |
| Costs and earnings in excess of billings | 1,048,216 | 503,113 |
| Income tax receivable | 171,907 | 171,907 |
| Deferred income taxes | 607,845 | 610,980 |
| Other | 756,778 | 554,396 |
| | <hr/> | <hr/> |
| Total current assets | 16,048,558 | 19,510,417 |
| INCOME-PRODUCING PROPERTIES, net | 42,541,128 | 43,179,037 |
| PROPERTY AND EQUIPMENT, net | 383,642 | 471,813 |
| OTHER ASSETS: | | |
| Real estate held for future development or sale | 3,952,812 | 3,952,812 |
| Intangible assets, net (Note 8) | 2,166,427 | 2,335,827 |
| Goodwill (Note 8) | 1,741,831 | 1,741,831 |
| Other | 2,587,595 | 2,605,361 |
| | <hr/> | <hr/> |
| | \$ 69,421,993 | \$ 73,797,098 |
| | <hr/> | <hr/> |
| <u>LIABILITIES AND SHAREHOLDERS' EQUITY</u> | | |
| CURRENT LIABILITIES: | | |
| Trade and subcontractors payables | \$ 5,670,891 | \$ 6,163,796 |
| Accrued expenses | 2,236,350 | 1,831,990 |
| Liabilities of discontinued operations (Note 5) | | 563,584 |
| Billings in excess of costs and earnings | 605,284 | 682,674 |
| Current maturities of long-term debt | 2,686,874 | 2,630,282 |
| | <hr/> | <hr/> |
| Total current liabilities | 11,199,399 | 11,872,326 |
| DEFERRED INCOME TAXES | 2,294,468 | 2,772,132 |
| OTHER LIABILITIES | 4,420,239 | 4,371,374 |
| MORTGAGE NOTES PAYABLE, less current maturities | 22,697,555 | 23,216,407 |
| OTHER LONG-TERM DEBT, less current maturities | 9,781,245 | 10,306,907 |
| | <hr/> | <hr/> |
| Total liabilities | 50,392,906 | 52,539,146 |
| | <hr/> | <hr/> |

COMMITMENTS AND CONTINGENCIES (Note 9)

SHAREHOLDERS' EQUITY:

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| | | |
|--|----------------------|---------------|
| Common stock, \$1 par value; 5,000,000 shares authorized; 3,060,239 issued and 2,914,151 outstanding in October 2003, 3,060,239 issued and 2,914,351 outstanding in April 2003 | 3,060,239 | 3,060,239 |
| Additional paid-in capital | 2,153,505 | 2,153,505 |
| Deferred stock compensation | (6,329) | (16,598) |
| Retained earnings | 14,496,519 | 16,734,753 |
| Treasury stock, common shares, 146,088 in October 2003 and 145,888 in April 2003 | (674,847) | (673,947) |
| | <hr/> | <hr/> |
| Total shareholders' equity | 19,029,087 | 21,257,952 |
| | <hr/> | <hr/> |
| | \$ 69,421,993 | \$ 73,797,098 |
| | <hr/> | <hr/> |

See accompanying notes to consolidated financial statements.

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ABRAMS INDUSTRIES, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)

| | SECOND QUARTER ENDED OCTOBER 31, | | FIRST SIX MONTHS ENDED OCTOBER 31, | |
|---|-------------------------------------|---------------|---------------------------------------|---------------|
| | 2003 | 2002 | 2003 | 2002 |
| REVENUES: | | | | |
| Construction | \$ 10,375,580 | \$ 20,100,576 | \$ 21,408,625 | \$ 34,528,609 |
| Rental income | 2,649,560 | 2,616,381 | 5,375,277 | 5,187,543 |
| Energy management | 716,480 | 732,955 | 1,375,284 | 1,398,542 |
| | 13,741,620 | 23,449,912 | 28,159,186 | 41,114,694 |
| Interest | 4,116 | 19,378 | 9,952 | 35,385 |
| Other | 47,863 | 840 | 61,870 | 42,368 |
| | 13,793,599 | 23,470,130 | 28,231,008 | 41,192,447 |
| COSTS AND EXPENSES: | | | | |
| Construction | 9,997,762 | 19,776,804 | 20,617,445 | 34,022,219 |
| Rental property operating expenses, excluding interest | 1,678,047 | 1,565,132 | 3,297,370 | 3,226,360 |
| Energy management | 418,632 | 320,582 | 822,607 | 732,602 |
| | 12,094,441 | 21,662,518 | 24,737,422 | 37,981,181 |
| Selling, general and administrative | | | | |
| Construction | 1,251,845 | 711,342 | 2,297,491 | 914,807 |
| Real estate | 145,046 | 248,629 | 370,772 | 453,070 |
| Energy management | 638,029 | 454,570 | 1,201,756 | 843,644 |
| Parent | 525,987 | 550,622 | 1,156,104 | 1,185,155 |
| | 2,560,907 | 1,965,163 | 5,026,123 | 3,396,676 |
| Interest costs incurred | 724,947 | 717,801 | 1,467,565 | 1,453,103 |
| | 15,380,295 | 24,345,482 | 31,231,110 | 42,830,960 |
| LOSS BEFORE INCOME TAXES FROM CONTINUING OPERATIONS | (1,586,696) | (875,352) | (3,000,102) | (1,638,513) |
| INCOME TAX BENEFIT | (530,000) | (338,787) | (995,000) | (637,000) |
| LOSS FROM CONTINUING OPERATIONS | (1,056,696) | (536,565) | (2,005,102) | (1,001,513) |
| DISCONTINUED OPERATIONS (Note 5): | | | | |
| Earnings (loss) from discontinued operations, adjusted for applicable income tax expense (benefit) of \$0, \$(3,195), \$0 and \$3,413, respectively | | (6,017) | | 4,762 |
| Gain on sale of assets of discontinued operations, adjusted for applicable income tax expense of \$0, \$0, \$0 and \$372,228, respectively | | | | 617,987 |

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| | | | | |
|--|-----------------------|---------------------|-----------------------|---------------------|
| EARNINGS (LOSS) FROM DISCONTINUED OPERATIONS | | (6,017) | | 622,749 |
| NET LOSS | \$ (1,056,696) | \$ (542,582) | \$ (2,005,102) | \$ (378,764) |
| NET LOSS PER SHARE - BASIC AND DILUTED (Note 7): | | | | |
| From continuing operations | \$ (.36) | \$ (.18) | \$ (.69) | \$ (.34) |
| From discontinued operations | | | | .21 |
| NET LOSS PER SHARE - BASIC AND DILUTED | \$ (.36) | \$ (.18) | \$ (.69) | \$ (.13) |
| DIVIDENDS PER SHARE | \$.04 | \$.04 | \$.08 | \$.08 |
| WEIGHTED AVERAGE SHARES OUTSTANDING - BASIC AND DILUTED | 2,914,167 | 2,910,148 | 2,914,219 | 2,909,632 |

See accompanying notes to consolidated financial statements.

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CONSOLIDATED STATEMENTS OF CASH FLOWS

| | SIX MONTHS ENDED OCTOBER 31, | |
|---|------------------------------|---------------------|
| | 2003 | 2002 |
| Cash flows from operating activities: | | |
| Net loss | \$ (2,005,102) | \$ (378,764) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | |
| Income from discontinued operations, net of tax | | (622,749) |
| Depreciation and amortization | 1,210,245 | 1,296,671 |
| Deferred tax benefit | (1,030,922) | |
| Recovery of doubtful accounts, net | (19,414) | (506,386) |
| Changes in assets and liabilities: | | |
| Receivables, net | 2,685,884 | (2,006,036) |
| Costs and earnings in excess of billings | (545,103) | 163,353 |
| Other current assets | (202,382) | (101,826) |
| Other assets | 17,766 | 86,871 |
| Trade and subcontractors payable | (492,905) | 552,885 |
| Accrued expenses | 404,360 | 169,813 |
| Billings in excess of costs and earnings | (77,390) | 54,409 |
| Other liabilities | 48,865 | (92,375) |
| Net cash used in operating activities | <u>(6,098)</u> | <u>(1,384,134)</u> |
| Cash flows from investing activities: | | |
| Additions to income-producing properties, net | (154,296) | (36,186) |
| Additions to property and equipment, net | (31,819) | (57,414) |
| Additions to intangible assets | (61,298) | (165,464) |
| Repayments received on notes receivable | 66,147 | 4,967 |
| Net cash used in investing activities | <u>(181,266)</u> | <u>(254,097)</u> |
| Cash flows from financing activities: | | |
| Debt proceeds | | 4,900,000 |
| Debt repayments | (1,045,893) | (5,518,284) |
| Deferred loan costs paid | | (107,788) |
| Repurchase of common stock | | (470) |
| Cash dividends | (233,144) | (232,770) |
| Net cash used in financing activities | <u>(1,279,037)</u> | <u>(959,312)</u> |
| Cash flows from discontinued operations: | | |
| Operating activities | 94,955 | (120,325) |
| Mortgage payoff | | (12,206,700) |
| Proceeds from sale of property, net of costs of sale | | 13,489,901 |
| Net cash provided by discontinued operations | <u>94,955</u> | <u>1,162,876</u> |
| Net decrease in cash and cash equivalents | (1,371,446) | (1,434,667) |
| Cash and cash equivalents at beginning of period | 5,157,639 | 7,911,205 |
| Cash and cash equivalents at end of period | <u>\$ 3,786,193</u> | <u>\$ 6,476,538</u> |
| Supplemental disclosure of noncash financing activities: | | |

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Issuance of common stock under Stock Award Plan

\$

\$ 5,500

See accompanying notes to consolidated financial statements.

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ABRAMS INDUSTRIES, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
OCTOBER 31, 2003, AND APRIL 30, 2003
(UNAUDITED)

NOTE 1. ORGANIZATION AND BUSINESS

Abrams Industries, Inc. (together with its subsidiaries, the Company) was organized under Delaware law in 1960. In 1984, the Company changed its state of incorporation from Delaware to Georgia. The Company engages in: (i) commercial construction services; (ii) real estate investment and development; and (iii) energy and maintenance management.

NOTE 2. UNAUDITED STATEMENTS

The accompanying unaudited consolidated financial statements have been prepared by the Company in accordance with accounting principles generally accepted in the United States of America, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements have been condensed or omitted pursuant to such rules and regulations, although management believes that the accompanying disclosures are adequate to make the information presented not misleading. In the opinion of management, the accompanying financial statements contain all adjustments, consisting of normal recurring accruals, that are necessary for a fair statement of the results for the interim periods presented. These financial statements should be read in conjunction with the consolidated financial statements and the notes thereto included in the Company's Annual Report on Form 10-K for the year ended April 30, 2003. Results of operations for interim periods are not necessarily indicative of annual results.

Certain reclassifications have been made to the fiscal 2003 consolidated financial statements to conform to classifications adopted in fiscal 2004.

NOTE 3. SIGNIFICANT ACCOUNTING POLICIES

As of January 31, 2003, the Company adopted the fair value disclosure provisions of Statement of Financial Accounting Standards (SFAS) No. 123, Accounting for Stock-Based Compensation, as amended by SFAS No. 148, Accounting for Stock-Based Compensation Transition and Disclosure. Under SFAS No. 148, the Company is required to disclose the effects on reported net (loss) earnings with respect to stock-based compensation.

For purposes of the required pro forma disclosures, the Company has computed the value of all stock option awards granted for the second quarter and six months ended October 31, 2003, and 2002, using the Black-Scholes option pricing model.

Options to purchase 672,252 shares were outstanding at October 31, 2003, of which 425,252 options were vested. No stock options or stock awards were granted in the second quarter or six months ended October 31, 2003. No options were granted in the second quarter ended October 31, 2002, and 609,000 options were granted in the six months ended October 31, 2002. If the Company had accounted for its stock-based compensation awards in accordance with SFAS No. 123, pro forma results would have been as follows:

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| | Quarter Ended October 31, | | Six Months Ended October 31, | |
|---|------------------------------|--------------|---------------------------------|--------------|
| | 2003 | 2002 | 2003 | 2002 |
| Net loss, as reported | \$ (1,056,696) | \$ (542,582) | \$ (2,005,102) | \$ (378,764) |
| Deduct: Total stock-based compensation expense as determined under fair value based method for all awards, net of related tax effects | (42,095) | (54,322) | (86,228) | (66,549) |
| Pro forma net loss | \$ (1,098,791) | \$ (596,904) | \$ (2,091,330) | \$ (445,313) |
| Net loss per share: | | | | |
| Basic and diluted - as reported | \$ (0.36) | \$ (0.18) | \$ (0.69) | \$ (0.13) |
| Basic and diluted - pro forma | \$ (0.38) | \$ (0.21) | \$ (0.72) | \$ (0.15) |

NOTE 4. RECEIVABLES

All net contract and trade receivables are expected to be collected within one year.

NOTE 5. DISCONTINUED OPERATIONS

Effective May 1, 2002, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, which requires, among other things, that the operating results of certain income-producing assets, sold subsequent to April 30, 2002, be included in discontinued operations in the statements of operations for all periods presented. On June 28, 2002, the Company sold its shopping center located in Englewood, Florida, and recognized a pretax gain of \$990,215. As a result of the sale, the Company's financial statements have been prepared with the property's assets and liabilities, results of operations, cash flows, and the gain from the sale shown as discontinued operations. As of October 31, 2003, the Company had no assets that qualified as held for disposition or sale as defined by SFAS No. 144. Summarized financial information for discontinued operations for the second quarter and six months ended October 31 is as follows:

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| <u>Results of operations</u> | Quarter ended October 31, | |
|---|--------------------------------------|-------------|
| | 2003 | 2002 |
| Revenues | \$ | \$ |
| Operating expenses, including amortization and interest | | 9,212 |
| | — | — |
| | \$ | \$(9,212) |
| | ■ | ■ |

| <u>Results of operations</u> | Six months ended October 31, | |
|---|---|-------------|
| | 2003 | 2002 |
| Revenues | \$ | \$289,173 |
| Operating expenses, including amortization and interest | | 280,998 |
| | — | — |
| | \$ | \$ 8,175 |
| | ■ | ■ |

| <u>Assets of discontinued operations</u> | Balances at | |
|---|---------------------------------|-----------------------|
| | October 31, 2003 | April 30, 2003 |
| Receivables | \$ | \$ 57,020 |
| Other | | 45,126 |
| | — | — |
| | \$ | \$ 102,146 |
| | ■ | ■ |

| <u>Liabilities of discontinued operations</u> | Balances at | |
|--|---------------------------------|-----------------------|
| | October 31, 2003 | April 30, 2003 |
| Income taxes | \$ | \$476,635 |
| Accrued expenses | | 86,949 |
| | — | — |
| | \$ | \$563,584 |
| | ■ | ■ |

NOTE 6. OPERATING SEGMENTS

The table below exhibits selected financial data on a segment basis. Earnings (loss) from continuing operations before income taxes are total revenues less operating expenses of continuing operations, including depreciation and interest. Parent company expenses have not been allocated to the subsidiaries.

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| For the Quarter Ended October 31, 2003 | Energy | | | | | Consolidated |
|--|----------------------|---------------------|-------------------|--------------|---------------------|----------------------|
| | Construction | Real Estate | Management | Parent | Eliminations | |
| Revenues from unaffiliated customers | \$ 10,375,580 | \$ 2,649,560 | \$ 716,480 | \$ | \$ | \$ 13,741,620 |
| Interest and other income | 568 | 51,352 | | 59 | | 51,979 |
| Intersegment revenue | 98,422 | 114,439 | | | (212,861) | |
| Total revenues from continuing operations | \$ 10,474,570 | \$ 2,815,351 | \$ 716,480 | \$ 59 | \$ (212,861) | \$ 13,793,599 |
| Earnings (loss) before income taxes from continuing operations | \$ (937,245) | \$ 264,168 | \$ (340,700) | \$ (576,489) | \$ 3,570 | \$ (1,586,696) |

| For the Quarter Ended October 31, 2002 | Energy | | | | | Consolidated |
|--|----------------------|---------------------|-------------------|-----------------|---------------------|----------------------|
| | Construction | Real Estate | Management | Parent | Eliminations | |
| Revenues from unaffiliated customers | \$ 20,100,576 | \$ 2,616,381 | \$ 732,955 | \$ | \$ | \$ 23,449,912 |
| Interest and other income | 3,157 | 12,417 | | 4,644 | | 20,218 |
| Intersegment revenue | | 112,388 | | | (112,388) | |
| Total revenues from continuing operations | \$ 20,103,733 | \$ 2,741,186 | \$ 732,955 | \$ 4,644 | \$ (112,388) | \$ 23,470,130 |
| Earnings (loss) before income taxes from continuing operations | \$ (450,797) | \$ 207,781 | \$ (42,429) | \$ (597,066) | \$ 7,159 | \$ (875,352) |

| For the Six Months Ended October 31, 2003 | Energy | | | | | Consolidated |
|--|----------------------|---------------------|---------------------|-----------------|---------------------|----------------------|
| | Construction | Real Estate | Management | Parent | Eliminations | |
| Revenues from unaffiliated customers | \$ 21,408,625 | \$ 5,375,277 | \$ 1,375,284 | \$ | \$ | \$ 28,159,186 |
| Interest and other income | 1,290 | 69,167 | | 1,365 | | 71,822 |
| Intersegment revenue | 98,422 | 227,932 | | | (326,354) | |
| Total revenues from continuing operations | \$ 21,508,337 | \$ 5,672,376 | \$ 1,375,284 | \$ 1,365 | \$ (326,354) | \$ 28,231,008 |
| Earnings (loss) before income taxes from continuing operations | \$ (1,635,843) | \$ 529,759 | \$ (649,854) | \$ (1,254,895) | \$ 10,731 | \$ (3,000,102) |

| For the Six Months Ended October 31, 2002 | Energy | | | | | Consolidated |
|---|---------------|--------------|--------------|--------|--------------|---------------|
| | Construction | Real Estate | Management | Parent | Eliminations | |
| Revenues from unaffiliated customers | \$ 34,528,609 | \$ 5,187,543 | \$ 1,398,542 | \$ | \$ | \$ 41,114,694 |
| Interest and other income | 8,116 | 56,785 | | 19,186 | (6,334) | 77,753 |
| Intersegment revenue | | 222,563 | | | (222,563) | |

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| | | | | | | |
|--|--------------|-------------|--------------|---------------|-------------|----------------|
| Total revenues from continuing operations | \$34,536,725 | \$5,466,891 | \$1,398,542 | \$ 19,186 | \$(228,897) | \$41,192,447 |
| Earnings (loss) before income taxes from continuing operations | \$ (532,242) | \$ 331,326 | \$ (184,683) | \$(1,267,239) | \$ 14,325 | \$ (1,638,513) |

Table of Contents**NOTE 7. EARNINGS (LOSS) PER SHARE**

Basic earnings per share are computed by dividing net earnings (loss) by the weighted average shares outstanding during the reporting period. Diluted earnings per share are computed giving effect to dilutive stock equivalents resulting from outstanding stock options. The dilutive effect on the number of common shares for the second quarter and the first six months of fiscal 2004 were 0 for both periods, and were 12,119 and 20,822 for the second quarter and the first six months of fiscal 2003, respectively. Since the Company had losses from continuing operations for all periods presented, all stock equivalents were antidilutive during these periods, and are therefore excluded when determining the diluted weighted average shares outstanding.

NOTE 8. GOODWILL AND OTHER INTANGIBLE ASSETS

The gross carrying amounts and accumulated amortization for all of the Company's intangible assets as of October 31, 2003, are as follows:

| <u>Amortized intangible assets</u> | <u>Gross Carrying Amount</u> | <u>Accumulated Amortization</u> |
|---|------------------------------|---------------------------------|
| Proprietary customer software solutions | \$ 969,386 | \$ 485,252 |
| Computer software | 352,339 | 299,736 |
| Real estate lease costs | 1,639,215 | 779,757 |
| Deferred loan costs | 946,954 | 513,477 |
| Other | 28,660 | 7,166 |
| | <u>\$3,936,554</u> | <u>\$2,085,388</u> |
| <u>Unamortized intangible assets</u> | | |
| Goodwill | | \$1,741,831 |
| Trademark | | 315,261 |
| | | <u>\$2,057,092</u> |

NOTE 9. COMMITMENTS AND CONTINGENCIES

As previously disclosed on Form 10-K for the year ended April 30, 2003, the Company announced on July 7, 2003, that an internal investigation, which was conducted by the Company's legal counsel at the request of senior management, revealed information suggesting that behavior in violation of Federal antitrust laws may have taken place in a certain job bidding process for one customer of the Company's subsidiary, Abrams Construction, Inc. The results of this investigation were reported to the Board of Directors of the Company on June 9, 2003. The Company has also voluntarily communicated the results of its investigation to the United States Department of Justice (DOJ) and is fully cooperating in the inquiry that resulted. The DOJ, on July 1, 2003, issued a conditional letter of amnesty to the Company and its subsidiaries for their cooperation in recognizing and then immediately reporting the irregularities. The Company believes, based on its internal investigation, that the specific improprieties were confined to a bidding process for The Home Depot, Inc. (Home Depot), its largest customer. At this time, the Company has no reason to believe that any other customers were affected by such behavior. The Company has also communicated its concerns about the job bidding process to Home Depot. The Company has conducted extensive additional training of all employees and has implemented additional procedures to prevent a recurrence of this behavior. Costs associated with this matter, including the Company's internal investigation and its ongoing cooperation with the DOJ, are estimated to approximate

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\$1.2 million in the current fiscal year ending April 30, 2004. Such cost estimates, however, are particularly difficult to make with any precision, and as a result the actual costs may be lower or higher than this amount. To date, no third party has made, or threatened to make, any claim in connection with this matter. It is possible, however, that claims could be made as a result of this situation.

On December 18, 2002, ASK Financial, counsel for Montgomery Ward LLC (Ward), filed a complaint in U.S. Bankruptcy Court in Delaware to recover approximately \$1.84 million in alleged preference payments made by Montgomery Ward & Company to the Company, prior to Montgomery Ward & Company's Chapter 11 bankruptcy filing on December 28, 2000. During the second quarter of fiscal 2004, the Company reached an agreement with representatives of the Ward estate to settle the claim for \$84,184. The funds were paid and the claim was released in November 2003.

On September 20, 2002, the Company's subsidiary, Abrams Properties, Inc. (API), filed a claim in the Superior Court of Cobb County, Georgia, against API's former real estate asset manager. The defendant subsequently made a demand against API for arbitration and filed a counterclaim. In January 2003, the Cobb County Superior Court denied the defendant's demand for arbitration, but in July 2003 this decision was reversed by the Georgia Court of Appeals. The Company sought certiorari from the state of Georgia Supreme Court, which was denied in November 2003. The case was remanded to the Cobb County Superior Court. The dispute arises out of the defendant's former provision of real estate asset management services to API. The Company believes API's claims against its former asset manager and its defenses to the manager's claims are meritorious and intends to continue to vigorously pursue its claims and assert its defenses.

Other than the costs of the Company's internal investigation and ongoing cooperation associated with the DOJ, the Company believes the ultimate disposition of the above noted legal proceedings and claims or potential claims, and those previously disclosed on Form 10-K for the year ended April 30, 2003, will not have a material adverse affect on the financial condition, cash flows, or results of operations of the Company; however, the Company cannot predict the ultimate disposition of the above noted claims, potential claims and proceedings, and therefore, the Company cannot be certain that the above noted legal proceedings and claims or potential claims will not have a material adverse affect on the financial condition, cash flows, or results of operations of the Company.

The Company is subject to other various legal proceedings and claims that arise in the ordinary course of business. While the resolution of these matters cannot be predicted with certainty, the Company believes that the final outcome of these matters will not have a material adverse effect on the Company's financial position or results of operations.

Table of Contents**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion should be read in conjunction with the consolidated financial statements, including the notes to those statements, which are presented elsewhere in this report. The Company also recommends that this discussion and analysis be read in conjunction with management's discussion and analysis and consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended April 30, 2003.

The Company's fiscal year 2004 ends April 30, 2004.

Changes in CONSOLIDATED BALANCE SHEETS between April 30, 2003, and October 31, 2003

Net accounts receivable decreased by \$2,732,617, primarily due to the timing of the submission and payment of invoices for construction work performed and a decrease in construction revenues.

Costs and earnings in excess of billings increased by \$545,103 primarily due to the timing of the submission of invoices for construction work performed.

Accrued expenses increased by \$404,360, primarily due to legal costs that had been incurred, but that had not been billed as of October 31, 2003, related to the legal proceedings discussed in Note 9 to the consolidated financial statements.

Results of operations of the second quarter and first six months of fiscal 2004 compared to the second quarter and first six months of fiscal 2003**REVENUES From Continuing Operations**

For the second quarter of fiscal 2004, consolidated revenues from continuing operations, including interest income and other income, and net of intersegment eliminations, were \$13,793,599, compared to \$23,470,130 for the second quarter of fiscal 2003, a decrease of 41%. For the first six months of fiscal 2004, consolidated revenues from continuing operations were \$28,231,008, compared to \$41,192,447 for the first six months of fiscal 2003, a decrease of 31%.

The figures in Chart A are segment revenues from continuing operations, net of intersegment eliminations, and do not include interest income or other income.

CHART A
REVENUES FROM CONTINUING OPERATIONS SUMMARY BY SEGMENT
(Dollars in Thousands)

| | Second Quarter Ended October 31, | | Amount Increase (Decrease) | Percent Increase (Decrease) | Six Months Ended October 31, | | Amount Increase (Decrease) | Percent Increase (Decrease) |
|-------------------|-------------------------------------|-----------------|----------------------------------|-----------------------------------|---------------------------------|-----------------|----------------------------------|-----------------------------------|
| | 2003 | 2002 | | | 2003 | 2002 | | |
| Construction (1) | \$10,376 | \$20,101 | \$(9,725) | (48) | \$21,409 | \$34,529 | \$(13,120) | (38) |
| Real Estate (2) | 2,650 | 2,616 | 34 | 1 | 5,375 | 5,187 | 188 | 4 |
| Energy Management | 716 | 733 | (17) | (2) | 1,375 | 1,399 | (24) | (2) |
| | <u>\$13,742</u> | <u>\$23,450</u> | <u>\$(9,708)</u> | <u>(41)</u> | <u>\$28,159</u> | <u>\$41,115</u> | <u>\$(12,956)</u> | <u>(32)</u> |

Table of Contents**NOTES TO CHART A**

- (1) Revenues decreased for the second quarter and the first six months of fiscal 2004 from the comparable periods in 2003 primarily due to the Company's ongoing election to reduce revenue volume rather than contract at prices that offer the Company unacceptable levels of potential profitability on a number of jobs for the Company's largest customer (revenues from this customer decreased by approximately \$8.5 million in the second quarter and \$11.7 million in the first six months of 2004 as compared to the same periods in 2003, a 55% and 46% decrease, respectively). The Company is currently not negotiating or bidding any new work for this customer. A majority of the revenues in fiscal 2003 and the second quarter and first six months of fiscal 2004 were from jobs that the Company would not bid on today, because they would not meet the Company's current profitability and risk criteria. The Company expects the trend of decreasing revenues from its largest customer to continue. The Company has continued to see a reduction in the number of construction jobs available in a very competitive marketplace, which is a result of a continuing weakness in capital spending by many retail companies. These factors are expected to continue to depress construction segment revenues, as is reflected in the construction backlog table below. Although the Company has seen little indication that the possible construction job bidding improprieties described in Note 9 to the consolidated financial statements will negatively impact the Company's ability to achieve future revenues, there can be no assurance that these possible improprieties will not have such effect. In fiscal 2003, the Company increased its new business development capabilities and continues in its efforts to identify customers and contracts that place more value on the Company's high quality and high service approach. Additionally, it is currently exploring different commercial market sectors for potential opportunities to broaden and increase construction segment revenues.
- (2) Revenues for the first six months of fiscal 2004 increased from that in 2003 primarily due to an increase in common area maintenance income of approximately \$181,000 and percentage rent of approximately \$56,000.

The following table indicates the backlog of contracts and rental income for the next twelve months, by industry segment.

| | October 31, | |
|---------------------------------|-----------------------------|-----------------------------|
| | 2003 | 2002 |
| Construction (1) | \$ 2,746,000 | \$ 15,011,000 |
| Real Estate-rental income (2) | 9,070,000 | 9,172,000 |
| Real Estate-sales (3) | | 850,000 |
| Energy Management (4) | 664,000 | 619,000 |
| Less: Intersegment eliminations | (935,000) | (467,000) |
| | <u> </u> | <u> </u> |
| Total Backlog | <u>\$ 11,545,000</u> | <u>\$ 25,185,000</u> |

- (1) See Note 1 to Chart A above. The intersegment eliminations reported include intercompany revenues of \$493,000 related to construction work to be performed for the real estate segment at one of its shopping centers.

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- (2) Included in Real Estate-rental income at October 30, 2002, is approximately \$255,000 related to a Kmart leaseback sublease that was terminated by the Company in November 2003. This amount is offset by several lease renewals in fiscal 2004.
- (3) Contracts to sell an outparcel in Jackson, Michigan, and an outparcel and an anchor store pad in Davenport, Iowa were included in Real estate-sales backlog at October 31, 2002. The Davenport properties and the Jackson outparcel were each sold at a gain. Real estate backlog at October 31, 2003, does not include a contract, which has been executed, to sell the Company's remaining undeveloped land in Oakwood, Georgia, for approximately \$1.5 million. The contract may be cancelled on or before March 1, 2004. The intersegment eliminations reported include intercompany rent of \$442,000 and \$467,000 as of October 31, 2003 and 2002, respectively.
- (4) All energy management contracts that can be cancelled with less than one year's notice are not included in backlog. As of October 31, 2003, and 2002, such contracts totaled \$1.09 million and \$1.05 million, respectively, in potential revenue over the next twelve months, assuming cancellation provisions are not invoked.

COSTS AND EXPENSES APPLICABLE TO REVENUES
From Continuing Operations

As a percentage of total segment revenues from continuing operations (See Chart A) for the second quarters and the first six months of fiscal 2004 and 2003, the total applicable costs and expenses (See Chart B) were 88% and 92%, respectively. In reviewing Chart B, the reader should recognize that the volume of revenues generally will affect the amounts and percentages.

The figures in Chart B are net of intersegment eliminations.

CHART B
COSTS AND EXPENSES APPLICABLE TO REVENUES
FROM CONTINUING OPERATIONS SUMMARY BY SEGMENT
(Dollars in Thousands)

| | Second Quarter Ended October 31, | | Percent of Segment Revenues for Second Quarter Ended October 31, | | Six Months Ended October 31, | | Percent of Segment Revenues for Six Months Ended October 31, | |
|-----------------------|-------------------------------------|------------------|---|-----------|---------------------------------|------------------|---|-----------|
| | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |
| Construction (1) | \$ 9,998 | \$ 19,777 | 96 | 98 | \$ 20,617 | \$ 34,022 | 96 | 99 |
| Real Estate (2) | 1,678 | 1,565 | 63 | 60 | 3,297 | 3,226 | 61 | 62 |
| Energy Management (3) | 419 | 321 | 59 | 44 | 823 | 733 | 60 | 52 |
| | <u>\$ 12,095</u> | <u>\$ 21,663</u> | <u>88</u> | <u>92</u> | <u>\$ 24,737</u> | <u>\$ 37,981</u> | <u>88</u> | <u>92</u> |

NOTES TO CHART B

- (1) The decrease in the percentage of costs and expenses applicable to revenues for the second quarter and first six months of fiscal 2004 compared to the same periods in 2003 is primarily attributable to a reduction in the number of loss jobs and the amount of losses taken on jobs as well as better profitability on a few jobs than comparable work in prior periods.

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- (2) The increase in the dollar amount and percentage of costs and expenses applicable to revenues from continuing operations for the second quarter of fiscal 2004 compared to the same period in 2003 is primarily attributable to: (a) an increase in fiscal 2004 common area maintenance expenses (See Note 2 to Chart A) of approximately \$61,000; (b) recoveries of bad debt expense of approximately \$86,000 in fiscal 2003, which reduced costs and expenses for that period; and (c) the Company no longer outsourcing asset management responsibilities resulting in a decrease in fiscal 2004 management fees of approximately \$42,000.
- (3) The increase in the dollar amount and percentage of costs and expenses applicable to revenues from continuing operations for the second quarter and first six months of fiscal 2004 compared to the same periods in 2003 is primarily a result of the change in the mix of services and products sold as well as an increase in personnel and personnel related costs incurred in order to enhance the quality of the Company's service offerings.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES
From Continuing Operations

For the second quarters of fiscal 2004 and 2003, selling, general and administrative expenses from continuing operations, net of intersegment eliminations, were \$2,560,907 and \$1,965,163, respectively. As a percentage of consolidated revenues from continuing operations, these expenses were 19% and 8%, respectively. For the first six months of 2004 and 2003, selling, general and administrative expenses from continuing operations, net of intersegment eliminations, were \$5,026,123 and \$3,396,676, respectively. As a percentage of consolidated revenues from continuing operations, these expenses were 18% and 8%, respectively. In reviewing Chart C, the reader should recognize that the volume of revenues generally will affect the amounts and percentages. The percentages in Chart C are based upon expenses as they relate to segment revenues from continuing operations (Chart A), except that parent and total expenses relate to consolidated revenues from continuing operations.

CHART C
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES
FROM CONTINUING OPERATIONS BY SEGMENT
(Dollars in Thousands)

| | Second Quarter Ended October 31, | | Percent of Segment Revenues for Second Quarter Ended October 31, | | Six Months Ended October 31, | | Percent of Segment Revenues for Six Months Ended October 31, | |
|-----------------------|-------------------------------------|-----------------|--|----------|---------------------------------|-----------------|---|----------|
| | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |
| Construction (1) | \$ 1,252 | \$ 711 | 12 | 4 | \$ 2,297 | \$ 915 | 11 | 3 |
| Real Estate (2) | 145 | 249 | 5 | 10 | 371 | 453 | 7 | 9 |
| Energy Management (3) | 638 | 455 | 89 | 62 | 1,202 | 844 | 87 | 60 |
| Parent (4) | 526 | 550 | 4 | 2 | 1,156 | 1,185 | 4 | 3 |
| | <u>\$ 2,561</u> | <u>\$ 1,965</u> | <u>19</u> | <u>8</u> | <u>\$ 5,026</u> | <u>\$ 3,397</u> | <u>18</u> | <u>8</u> |

NOTES TO CHART C

- (1) On a dollar and percentage basis, selling, general and administrative expenses were higher for the second quarter and for the first six months of fiscal 2004 compared to the same periods in 2003 primarily due to: (a) an increase in legal and professional fees in the second quarters and the first six months of fiscal 2004 of approximately \$535,000 and \$902,000, respectively, primarily due to

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the Company's internal investigation and ongoing cooperation with the U.S. Department of Justice as discussed in Note 9 to the consolidated financial statements; (b) the one-time reduction of \$450,000 in the first six months of fiscal 2004 relating to fiscal 2003 expenses, resulting from the decrease in an allowance for doubtful accounts reserve for a receivable from Montgomery Ward & Company; offset by (c) a reduction in salary costs of \$112,000 and \$136,000 offset by hiring and severance costs of \$51,000 and \$98,000 in the second quarter and first six months of fiscal 2004, respectively.

- (2) On a dollar and percentage basis, selling, general and administrative expenses were lower for the second quarter and the first six months of fiscal 2004 compared to the same periods in 2003 primarily due to: (a) the decrease in legal and professional fees of approximately \$89,500 and \$65,000 in the second quarter and first six months of fiscal 2004, respectively; and (b) the decrease in asset management fees paid to a third party of approximately \$43,500 and \$87,000 in the second quarter and the first six months of fiscal 2004, respectively.
- (3) On a dollar and percentage basis, selling, general and administrative expenses were higher for the second quarter and first six months of fiscal 2004 compared to the same periods in 2003, primarily due to an increase in the number of personnel and other personnel costs. Such personnel related costs are primarily a result of enhanced sales and marketing resources as well as severance costs.
- (4) Although, selling, general and administrative expenses were lower on a dollar basis, on a percentage basis, selling, general and administrative expenses were higher for the second quarter and the first six months of fiscal 2004 compared to the same periods in 2003 primarily due to the reduction of revenues.

Liquidity and capital resources

Between April 30, 2003, and October 31, 2003, working capital decreased by \$2,788,932 primarily due to losses from continuing operations, the collection of receivables, and the reduction of revenues during the first six months of fiscal 2004. Operating activities used cash of \$6,098, primarily due to losses incurred during the first six months of fiscal 2004, an increase in costs and earnings in excess of billings, offset by a decrease in receivables. Investing activities used cash of \$181,266. Financing activities used cash of \$1,279,037, primarily for scheduled principal payments of mortgage notes and other long-term debt. Discontinued operations provided cash of \$94,955 due to the collection of receivables.

In fiscal 2004, the Company plans to invest approximately \$800,000 of its available cash to complete the build-out of approximately 21,000 square feet of vacant space in its Jackson, Michigan shopping center. The Company is also currently marketing this center for sale. The mortgage loan on the property may be assumed by the buyer or paid off at closing if such sale takes place. There is a prepayment penalty associated with the early repayment of the mortgage loan which can be prepaid with 60 days prior written notice. The prepayment penalty is equal to the greater of 1% of the principal balance or the difference between the present value of the remaining principal and interest payments, using the designated annual Treasury note yield as the discount rate, and the loan amount. Management estimates that the Company could incur a prepayment penalty of approximately \$925,000 if a sale takes place and the loan is not assumed by the buyer. There can be no assurance that the property will be sold or that sufficient proceeds from the sale of the property would be available to pay off the loan.

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In conjunction with the origination of the mortgage loan on the Jackson, Michigan shopping center, the Company obtained an irrevocable, standby letter of credit in the amount of \$500,000. The letter of credit was originally issued in July 1997, and has been extended to mature on March 31, 2004. The mortgage lender is allowed to draw on the letter in order to reduce the related mortgage loan if certain leasing requirements are not met. The letter of credit is secured by a bank line of credit, as discussed below.

Except for certain real estate construction loans and occasional short-term operating loans, the Company generally has been able to finance its working capital needs through funds generated internally. If adequate funds are not generated through normal operations or from the sale of income producing properties, the Company has available bank lines of credit. In October 2003, the lines of credit were renewed and currently provide commitments from a bank for unsecured lines of credit totaling \$7 million, of which a total of \$650,000 is restricted as it secures letters of credit. These lines of credit bear interest at the prime rate or LIBOR plus 2%, and have a commitment fee of 0.375% on any unused portion. The bank lines of credit expire on October 30, 2004. At October 31, 2003, no amounts were outstanding under these lines of credit.

In October 2003, the maturity date of the loan related to the Company's shopping center in North Ft. Myers, Florida, was extended to February 2005. The Company is currently marketing the shopping center for sale. There can be no assurance that the property will be sold or that sufficient proceeds from the sale of the property would be available to pay off the loan on or before its maturity.

The Company estimates the costs associated with the U.S. Department of Justice investigation described under ITEM 3. LEGAL PROCEEDINGS, including the Company's internal investigation and its ongoing cooperation with the Justice Department, are expected to approximate \$1.2 million in the current fiscal year ending April 30, 2004. Such cost estimates, however, are particularly difficult to make with any precision, and as a result the actual costs may be lower or higher than this amount.

The Company anticipates that its equity, lines of credit, potential proceeds from sales of real estate, potential cash flow provided by financing or refinancing of debt, and cash flow generated from operations will, for the foreseeable future, provide adequate liquidity and financial flexibility to meet the Company's needs to fund working capital, capital expenditures, and investment activities.

Cautionary statement regarding forward-looking statements

Certain statements contained or incorporated by reference in this Quarterly Report on Form 10-Q, including without limitation, statements containing the words believes, anticipates, estimates, expects, plans, and words of similar import, are forward-looking statements within the meaning of the federal securities laws. Such forward-looking statements involve known and unknown risks, uncertainties and other matters which may cause the actual results, performance, or achievements of the Company to be materially different from any future results, performance, or uncertainties expressed or implied by such forward-looking statements.

Factors relating to general global, national, regional, and local economic conditions, including international political stability, national security, employment levels, wage and salary levels, consumer confidence, availability of credit, taxation policies, interest rates, capital spending, deflation, and inflation could negatively impact the Company and its customers, suppliers, and sources of capital. Any significant negative impact from these factors could result in material adverse effects on the Company's results of operations and financial condition.

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The Company is at risk for many other matters beyond its control, including, but not limited to: the possible impact, if any, on revenues due to the possible construction job bidding improprieties described in Note 9 to the consolidated financial statements; the ultimate disposition of legal proceedings in which the Company is involved, including the U.S. Department of Justice's inquiry into the aforementioned construction job bidding matter; the potential loss of significant customers; co-tenancy provisions in anchor tenant leases; the Company's ability to sell or refinance its real estate; the Company's ability to acquire a qualified replacement property for tax deferral purposes; the possibility of not achieving projected backlog revenues or not realizing earnings from such revenues; continuing competitive pressures on the availability and pricing of construction projects; the cost and availability of insurance; the ability of the Company to attract and retain key personnel; weather conditions; changes in laws and regulations, including changes in accounting standards, generally accepted accounting principles, and regulatory requirements of the SEC and NASDAQ; overall vacancy rates in markets where the Company leases retail and office space; overall capital spending trends in the economy; the timing and amount of earnings recognition related to the possible sale of real estate properties held for sale; delays in or cancellations of customers' orders; the ultimate collectibility of the Company's receivable from the Montgomery Ward & Company bankruptcy; the level and volatility of interest rates; the failure of a subcontractor to perform; and the deterioration in the financial stability of an anchor tenant, significant subcontractor or other significant customer.

Critical Accounting Policies

A critical accounting policy is one that is both important to the portrayal of a Company's financial position and results of operations, and requires the Company to make estimates and assumptions in certain circumstances that affect the amounts reported in the accompanying consolidated financial statements and related notes. In preparing these financial statements, the Company has made its best estimates and used its best judgments regarding certain amounts included in the financial statements, giving due consideration to materiality. The application of these accounting policies involves the exercise of judgment and the use of assumptions regarding future uncertainties, and as a result, actual results could differ from those estimates. Management believes that the Company's most critical accounting policies include:

Revenue recognition

Construction revenues are reported on the percentage-of-completion method, using costs incurred to date in relation to estimated total costs of the contracts, to measure the stage of completion. Original contract prices are adjusted for cumulative effects of changes in estimated total contract costs and revenues (change orders) in the amounts that are reasonably estimated based on the Company's historical experience. The change orders are recorded in the period in which the facts requiring such revisions become known, and are accounted for using the percentage-of-completion method. At the time it is determined that a contract is expected to result in a loss, the entire estimated loss is recorded.

The Company leases space in its income-producing properties to tenants, and recognizes minimum base rentals as revenue on a straight-line basis over the lease terms. Tenants may also be required to pay additional rental amounts based on property operating expenses. In addition, certain tenants are required to pay incremental rental amounts, which are contingent on their store sales. These percentage rents are recognized only as earned.

Revenue from the sale of real estate is recognized when all of the following has occurred: (a) the property is transferred to the buyer; (b) the buyer's initial and continuing investment is adequate to demonstrate a commitment to pay for the property; and (c) the buyer has assumed all future ownership risks of the property. Costs of sales related to real estate are based on the specific property sold. When a

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portion or unit of a development property is sold, a proportionate share of the total cost of the development is charged to cost of sales.

Energy management revenues primarily consist of services and product sales. Revenues are recognized as services are rendered, and depending upon the product type and customer agreement, product sales are recognized when products are shipped or delivered.

Income-producing properties and property and equipment

Income-producing properties are stated at cost, and are depreciated for financial reporting purposes using the straight-line method over the estimated useful lives of the assets.

Property and equipment are stated at cost, and are depreciated for financial reporting purposes using the straight-line method over the estimated useful lives of the assets. Significant additions that extend asset lives are capitalized. Normal maintenance and repair costs are expensed as incurred.

Interest and other carrying costs related to real estate assets under construction are capitalized. Costs of development and construction of real estate assets are also capitalized. Capitalization of interest and other carrying costs are discontinued when a project is substantially completed or if active development ceases.

Impairment of long-lived assets and assets to be disposed of

Long-lived assets and certain intangible assets, are required to be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the asset to estimated future net cash flows expected to be generated by the asset. If an asset is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds the asset's fair value. Assets to be disposed of are reported at the lower of their carrying amount or fair value less cost to sell.

Income taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date of such change.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

See ITEM 2. Liquidity and capital resources for discussion regarding the debt on the Company's shopping centers in Jackson, Michigan, and North Ft. Myers, Florida and the renewal of the Company's lines of credit. There have been no other material changes since April 30, 2003. Refer to the Company's Annual Report on Form 10-K for the fiscal year ended April 30, 2003, for detailed disclosures about quantitative and qualitative disclosures about market risk.

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ITEM 4. CONTROLS AND PROCEDURES

Management has evaluated the Company's disclosure and controls and procedures as defined by Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this report. This evaluation was carried out with the participation of the Company's Chief Executive Officer and Chief Financial Officer. Based on this evaluation, these officers have concluded that the Company's disclosure controls and procedures were effective as of such date.

There was no change in the Company's internal control over financial reporting that occurred during the period covered by this quarterly report on Form 10-Q that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 3. LEGAL PROCEEDINGS

As previously disclosed on Form 10-K for the year ended April 30, 2003, the Company announced on July 7, 2003, that an internal investigation, which was conducted by the Company's legal counsel at the request of senior management, revealed information suggesting that behavior in violation of Federal antitrust laws may have taken place in a certain job bidding process for one customer of the Company's subsidiary, Abrams Construction, Inc. The results of this investigation were reported to the Board of Directors of the Company on June 9, 2003. The Company has also voluntarily communicated the results of its investigation to the United States Department of Justice (DOJ) and is fully cooperating in the inquiry that resulted. The DOJ, on July 1, 2003, issued a conditional letter of amnesty to the Company and its subsidiaries for their cooperation in recognizing and then immediately reporting the irregularities. The Company believes, based on its internal investigation, that the specific improprieties were confined to a bidding process for The Home Depot, Inc. (Home Depot), its largest customer. At this time, the Company has no reason to believe that any other customers were affected by such behavior. The Company has also communicated its concerns about the job bidding process to Home Depot. The Company has conducted extensive additional training of all employees and has implemented additional procedures to prevent a recurrence of this behavior. Costs associated with this matter, including the Company's internal investigation and its ongoing cooperation with the DOJ, are estimated to approximate \$1.2 million in the current fiscal year ending April 30, 2004. Such cost estimates, however, are particularly difficult to make with any precision, and as a result the actual costs may be lower or higher than this amount. To date, no third party has made, or threatened to make, any claim in connection with this matter. It is possible, however, that claims could be made as a result of this situation.

On December 18, 2002, ASK Financial, counsel for Montgomery Ward LLC (Ward), filed a complaint in U.S. Bankruptcy Court in Delaware to recover approximately \$1.84 million in alleged preference payments made by Montgomery Ward & Company to the Company, prior to Montgomery Ward & Company's Chapter 11 bankruptcy filing on December 28, 2000. During the second quarter of fiscal 2004, the Company reached an agreement with representatives of the Ward estate to settle the claim for \$84,184. The funds were paid and the claim was released in November 2003.

On September 20, 2002, the Company's subsidiary, Abrams Properties, Inc. (API), filed a claim in the Superior Court of Cobb County, Georgia, against API's former real estate asset manager. The defendant subsequently made a demand against API for arbitration and filed a counterclaim. In January 2003, the Cobb County Superior Court denied the defendant's demand for arbitration, but in July 2003

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this decision was reversed by the Georgia Court of Appeals. The Company sought certiorari from the state of Georgia Supreme Court, which was denied during the second quarter of fiscal 2004. The case was remanded to the Cobb County Superior Court. The dispute arises out of the defendant's former provision of real estate asset management services to API. The Company believes API's claims against its former asset manager and its defenses to the manager's claims are meritorious and intends to continue to vigorously pursue its claims and assert its defenses.

Other than the costs of the Company's internal investigation and ongoing cooperation associated with the DOJ, the Company believes the ultimate disposition of the above noted legal proceedings and claims or potential claims, and those previously disclosed on Form 10-K for the year ended April 30, 2003, will not have a material adverse effect on the financial condition, cash flows, or results of operations of the Company; however, the Company cannot predict the ultimate disposition of the above noted claims, potential claims and proceedings, and therefore, the Company cannot be certain that the above noted legal proceedings and claims or potential claims will not have a material adverse effect on the financial condition, cash flows, or results of operations of the Company.

The Company is subject to other various legal proceedings and claims that arise in the ordinary course of business. While the resolution of these matters cannot be predicted with certainty, the Company believes that the final outcome of these matters will not have a material adverse effect on the Company's financial position or results of operations.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

At the Company's Annual Meeting, held on September 10, 2003, the shareholders voted upon and approved the Nominees for the Board of Directors. The voting was as follows:

| <u>DIRECTORS</u> | <u>VOTES FOR</u> | <u>VOTES WITHHELD</u> |
|--------------------------|------------------|-----------------------|
| Alan R. Abrams | 2,766,541 | 24,972 |
| David L. Abrams | 2,780,561 | 10,952 |
| J. Andrew Abrams | 2,779,361 | 12,152 |
| Samuel E. Allen | 2,780,561 | 10,952 |
| Gilbert L. Danielson | 2,780,461 | 11,052 |
| Melinda S. Garrett | 2,779,261 | 12,252 |
| Robert T. McWhinney, Jr. | 2,780,461 | 11,052 |
| Felker W. Ward, Jr. | 2,780,561 | 10,952 |

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

- (a) Exhibits
- 31(a) Certification of Chief Executive Officer, pursuant Rules 13a-14(a)/15d-14(a)
- 31(b) Certification of Chief Financial Officer, pursuant Rules 13a-14(a)/15d-14(a)
- 32(a) Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes Oxley Act 2002

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- 32(b) Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes Oxley Act 2002
- (b) Reports on Form 8-K during the quarter ended October 31, 2003
- None.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ABRAMS INDUSTRIES, INC.

(Registrant)

Date: December 12, 2003

/s/ Alan R. Abrams

Alan R. Abrams
Chief Executive Officer

Date: December 12, 2003

/s/ Mark J. Thomas

Mark J. Thomas
Chief Financial Officer