

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**CAPITALSOURCE BANK**

**PLAINTIFF**

**v.**

**CASE NO. CV-3:10 CV00325 JMM**

**WALCOTT ENTERPRISES, INC. AND  
JONES TRAVEL MART, INC.**

**DEFENDANTS**

**NORTHCHASE DEVELOPMENT, INC.;  
TIMOTHY J. LEATHERS, COMMISSIONER  
OF REVENUES, STATE OF ARKANSAS;  
BENNY MAGNESS AND JANIE MAGNESS;  
THE CAPITAL BANK; DMC & JRM LLC,  
DAVID COOK AND JACKIE McCLURE;  
AND PEPSIAMERICAS, INC.**

**SEPARATE DEFENDANTS**

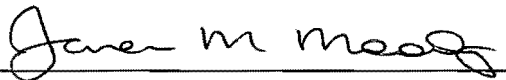
**ORDER CONFIRMING FORECLOSURE SALE**

On this day is presented to the Court the Commissioner's Report of Foreclosure Sale, and the Court finds that said sale was duly advertised and conducted in accordance with the applicable law and statutes, and the Court approves and confirms said sale, finds that the sum bid for said property was adequate, that the terms of said sale were proper in all respects, and that said sale was legally proper in all respects.

**IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED and DECREED** that said sale and Report of Foreclosure Sale be, and the same are hereby, in all things approved and confirmed, and that the Commissioner, upon complete payment or credit of the purchase money, is directed to execute, acknowledge and deliver to said purchaser a Commissioner's Deed conveying the lands and personalty described in the Judgment and Decree of Foreclosure (the "Judgment") of this Court to the purchaser and that the judgment previously rendered in this cause in favor of the Plaintiff be and the same is hereby credited with the amount of said sale in the sum of \$840,000.00

less the costs of sale and the Commissioner's Fee of \$840.00, and satisfied to such extent, and that after said deed is transferred, all necessary writs may be issued by the Clerk upon application of the purchaser to place the purchaser in possession of said lands.

**IT IS SO ORDERED**

  
UNITED STATES DISTRICT JUDGE

Date: 2/9/12

**FILED**

**FEB - 2 2012**

GREENE CO CIRCUIT CLERK

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AND PEPSIAMERICAS, INC.**

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**REPORT OF SALE**

Jan Griffith, the Court-appointed Commissioner to execute the Judgment and Decree of Foreclosure entered on September 15, 2011 (the "Judgment"), reports as follows:

Pursuant to the Judgment, notice of the time, terms, and place of sale of the property ordered sold was published once a week for four (4) consecutive weeks prior to the date of sale as follows: (1) *Paragould Daily Press*, a newspaper in Greene County, Arkansas, having a bona fide circulation therein, the first insertion of such notice being on September 27, 2011 and the last insertion being on October 18, 2011; (2) *The Times Dispatch*, a newspaper in Lawrence County, Arkansas, having a bona fide circulation therein, the first insertion of such notice being on September 28, 2011 and the last insertion being on October 19, 2011; and (3) *Clay County Times-Democrat*, a newspaper in Clay County, Arkansas, having a bona fide circulation therein, the first insertion of such notice being on September 28, 2011 and the last insertion being on October 19, 2011, the dates of publication of such notice being more particularly set out in proofs of publication filed herein and made a part of this report by reference.

On the 1st day of February, 2012, the date in said notice specified for such sale as modified by that Order Postponing Sale entered in this matter, at 9:00 a.m., your Commissioner offered for sale at public auction in the lobby in front of the Circuit Clerk's office in the Greene County Courthouse, Paragould, Greene County, Arkansas, the place specified in said notice, to the highest bidder upon a credit of thirty (30) days, the following property in Greene, Lawrence and Clay Counties, Arkansas as well as the improvements thereon (collectively, the "Property"):

**CLAY COUNTY PROPERTY**

**LOT 10 IN BLOCK 11 OF TEMPLETON'S THIRD ADDITION TO THE CITY OF PIGGOT, CLAY COUNTY, ARKANSAS, LESS AND EXCEPT: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 10, RUN THENCE SOUTH 24 FEET; RUN THENCE WEST 109 FEET; RUN THENCE NORTH 14.2 FEET; RUN THENCE WEST 31 FEET; RUN THENCE NORTH 9.8 FEET; RUN THENCE EAST 140 FEET TO THE POINT OF BEGINNING.**

**AND**

**ALL OF LOTS 11 AND 12 IN BLOCK 11 OF TEMPLETON'S THIRD ADDITION TO THE CITY OF PIGGOT, CLAY COUNTY, ARKANSAS.**

**GREENE COUNTY PROPERTY**

**TRACT NO. 1:**

**LOTS 10 AND 11, BLOCK 3, McDONALD'S THIRD ADDITION TO THE CITY OF PARAGOULD, ARKANSAS. LESS AND EXCEPT: PART OF LOT 10, BLOCK 3, McDONALD'S THIRD ADDITION TO THE CITY OF PARAGOULD, SECTION 31, TOWNSHIP 17 NORTH, RANGE 6 EAST, GREENE COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: STARTING AT THE SOUTHEAST CORNER OF LOT 10, BLOCK 3, McDONALD'S THIRD ADDITION; THENCE NORTH 00 DEGREES 33 MINUTES 13 SECONDS EAST ALONG THE EAST LINE THEREOF A DISTANCE OF 83.06 FEET TO A POINT ON THE SOUTHERLY EXISTING RIGHT OF WAY LINE OF U.S. HIGHWAY 49B; THENCE NORTH 75 DEGREES 24 MINUTES 55 SECONDS WEST ALONG SAID LINE A DISTANCE OF 150.31 FEET TO A POINT ON THE PROPOSED RIGHT OF WAY LINE OF U.S. HIGHWAY 49B FOR THE POINT OF BEGINNING; THENCE SOUTH 52 DEGREES 21**

**MINUTES 34 SECONDS WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 27.95 FEET TO A POINT ON THE EASTERLY EXISTING RIGHT OF WAY LINE OF NORTH 4<sup>TH</sup> STREET; THENCE NORTH 00 DEGREES 44 MINUTES 35 SECONDS EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 22.75 FEET TO A POINT ON THE SOUTHERLY EXISTING RIGHT OF WAY LINE OF U.S. HIGHWAY 49B; THENCE SOUTH 75 DEGREES 24 MINUTES 57 SECONDS EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 22.56 FEET TO THE POINT OF BEGINNING.**

**TRACT NO. 2:**

**LOTS 7 AND 8, BLOCK 10 OF McDONALD'S FOURTH ADDITION TO THE CITY OF PARAGOULD, GREENE COUNTY, ARKANSAS.**

**TRACT NO. 3:**

**LOTS 8 AND 9, BLOCK 3, McDONALD'S THIRD ADDITION TO THE CITY OF PARAGOULD, GREENE COUNTY, ARKANSAS.**

**LAWRENCE COUNTY PROPERTY**

**LOTS 2, 3, 4, 5, 6, 7, 8, 9 AND 10, BLOCK 1 BOAS THIRD ADDITION TO THE TOWN OF HOXIE, LAWRENCE COUNTY, ARKANSAS. SUBJECT TO AN ENCROACHMENT FROM LOT 3, BEGINNING 6.7 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 4 AND RUNNING AT AN ANGLE TO THE NORTHEAST CORNER OF SAID LOT.**


Together with the following personal property (the "Personalty"):

**Goods, including Equipment, Fixtures, Furniture, and Accessions covered by that Security Agreement dated December 21, 2005, executed by Walcott Enterprises, Inc. and delivered to MainStreet Lender 7(a), LLC. All personal property described in that Mortgage recorded on December 27, 2005, in Mortgage Book-E 199, Pages 5520-5521 of the records of Clay, County, Arkansas, all personal property described in that Mortgage recorded on December 29, 2005, as Document No. 200511790 of the records of Greene County, Arkansas and that personal property described in that Mortgage recorded on December 28, 2005, in Book 155, Pages 56-64 of the records of Lawrence County, Arkansas.**

At said sale, held as stated, CSB SBL 406 Southwest Texas Street DPC Holdings, LLC, assignee of the Judgment from Plaintiff, bid and offered to pay for the Property and the

Personalty, the sum of \$840,000.00, as a credit against the Judgment, and this being the highest and best bid for said lands, the same were sold to the said CSB SBL 406 Southwest Texas Street DPC Holdings, LLC for said sum.

WHEREFORE, Jan Griffith, Commissioner, prays that the Court approve her actions stated herein, that said sale be confirmed, and that upon full payment or credit to Plaintiff of the purchase money, she be directed to execute a deed to the purchaser for said Property and Personalty and that said purchase price, after payment of all costs, be applied to the Judgment herein rendered.

  
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COMMISSIONER