

**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 APPROVING COMMISSIONER'S DEED

On this day is presented to the Court the Commissioner's Deed of Jan Griffith, Commissioner appointed to execute the Judgment and Decree of Foreclosure rendered in the above-styled cause (the "Judgment"), and the Court having examined the Commissioner's Deed to CSB SBL 406 Southwest Texas Street DPC Holdings, LLC, assignee of the Judgment and the purchaser of the real and personal property described in the Judgment of the Court and in said Commissioner's Deed, the Commissioner's Deed is in all things approved and confirmed. And the Commissioner, having acknowledged that she has executed the Commissioner's Deed to said purchaser, thereby conveying the land and personalty more specifically described in the Judgment and Commissioner's Deed, for the consideration and purposes set forth therein, it is therefore ORDERED that the Commissioner's Deed be approved and confirmed and that this order and acknowledgment be entered upon the record along with said Commissioner's Deed, and certified by the Court Clerk under the seal of this Court.

IT IS SO ORDERED.

James M. Moody
UNITED STATES DISTRICT JUDGE

Date: 2/9/12

ACKNOWLEDGMENT

IN WITNESS that the above and foregoing order and acknowledgment is a true and complete copy of same from the records and proceedings of the United States District Court for the Eastern District of Arkansas, I hereby set my hand and seal as Clerk of said Court on this 10th day of February, 2012.

JAMES W. McCORMACK, CLERK

DATE: 2/10/2012

BY: Donna Jackson
Deputy Clerk

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AND PEPSIAMERICAS, INC.**

SEPARATE DEFENDANTS

COMMISSIONER'S DEED

KNOW ALL MEN BY THESE PRESENTS:

That Jan Griffith, as Commissioner, hereby certifies and conveys as follows:

WHEREAS, in the United States District Court for the Eastern District of Arkansas, on the 15th day of September, 2011, it was ordered, adjudged and decreed in the above-styled cause, that the Plaintiff, CapitalSource Bank, have judgment against the Defendants Walcott Enterprises, Inc.

This instrument prepared by:
Harry A. Light
Friday, Eldredge & Clark
400 West Capitol, Suite 2000
Little Rock, AR 72201

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps has been placed on this instrument.

Grantee or Grantee's Agent and Grantee's address to which tax statements should be mailed:



CSB SBL 408 Southwest Texas Street DPC Holdings, LLC
5404 Wisconsin Avenue, 2nd Floor
Chevy Chase, Maryland 20815

and Jones Travel Mart, Inc., jointly and severally, and *in rem* against the real property and personalty described below, in the sum of \$1,284,902.78 as of June 22, 2011, with pre-judgment and post-judgment interest as provided in the judgment, together with the costs of said action and attorneys' fees in the amount of \$15,000.00 and it was decreed that all of the right, title, interest, equity and estate of the Defendants and Separate Defendants and anyone claiming by through or under Defendants and Separate Defendants, as well as all rights of dower, homestead and redemption of Defendants and Separate Defendants and anyone claiming by through or under Defendants or Separate Defendants, in and to the property hereinafter described be foreclosed and forever barred, and that upon default in the payment of said judgment, interest, attorney's fee, and costs, this Commissioner should give notice of the time, terms and place of sale and sell at public auction to the highest bidder, on a credit of thirty (30) days, at the designated place in the Greene County Courthouse in Greene County, Arkansas, between the hours of nine o'clock in the morning and three o'clock in the afternoon, following proper publication of notice, the real and personal property described in the Judgment and Decree of Foreclosure entered in this matter on September 15, 2011 including, the real and personal property described in the following: (1) Mortgage dated December 21, 2005, and recorded in the real estate records of Clay County, Arkansas in Mortgage-E Book 199, Pages 5520-5528; (2) Mortgage dated December 21, 2005, and recorded in the real estate records of Greene County, Arkansas as Document No. 200511790; (3) Mortgage dated December 21, 2005, and recorded in the real estate records of Lawrence County, Arkansas in Book 155, Pages 56-64; and (4) Security Agreement dated December 21, 2005, executed by Walcott Enterprises, Inc. and delivered to MainStreet Lender 7(a), LLC and incorporated herein by reference including the following described real and personal property (the real property and other property described in the Mortgages

and Security Agreement together with all tenements, hereditaments and appurtenances thereunto belonging being hereinafter referred to as 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 4TH 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:

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

AND WHEREAS, said sale was conducted according to the judgment and decree of said Court and in accordance with applicable law, which sale was duly reported to the Court and approved by the Court and the undersigned Commissioner was directed to make a deed to the purchaser, CSB SBL 406 Southwest Texas Street DPC Holdings LLC, assignee of

Plaintiff, who offered the highest and best bid at said sale;

AND WHEREAS, the undersigned Commissioner and the Grantee named herein, who was the purchaser at said sale, have in all respects complied with and conformed to applicable law, and their respective actions have been approved by and have been in accordance with the orders of the Court;

NOW THEREFORE, Jan Griffith, as Commissioner, acting for and on behalf of the United States District Court for the Eastern District of Arkansas, and in accordance with its Judgment and Decree of Foreclosure in consideration of the premises and of the sum of \$840,000.00, as a credit against the judgment, does hereby grant, bargain, sell and convey the Property unto CSB SBL 406 Southwest Texas Street DPC Holdings LLC, and unto its successors, heirs and assigns forever.

In Witness Whereof, I have hereunto affixed my hand as Commissioner, and the seal of this Court, this 8 day of February, 2012.



COMMISSIONER

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF GREENE)

On this day personally appeared before me, the undersigned, a Notary Public, within and for the state and county aforesaid, duly commissioned, qualified and acting, Jan Griffith, Commissioner, to me known to be the person executing the foregoing Commissioner's Deed and acknowledged to me that she has executed the same for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and official seal as such Notary Public, on this 8th day of February, 2012.



NOTARY PUBLIC

My Commission Expires:

1-17-2015

