

SUPREME COURT  
STATE OF NEW YORK : COUNTY OF CHAUTAUQUA

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GE CAPITAL SMALL BUSINESS FINANCE  
CORPORATION,

Plaintiff,

-vs-

**NOTICE OF SALE**

Index No.: KI-2004-1686

REGAL HOLDINGS LLC;  
REGAL LUMBER COMPANY, INC.;  
JEFFREY KESTER;  
LUMBERMENS MERCHANDISING CORPORATION;  
NEW YORK STATE DEPARTMENT OF TAXATION  
AND FINANCE  
and JOHN DOE,

Defendants.

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**NOTICE IS HEREBY GIVEN:**

1. That a non-judicial proceeding for foreclosure by power of sale was commenced by the plaintiff against the above-named defendants for the foreclosure of that mortgage by Regal Holdings LLC to GE Capital Small Business Finance Corporation dated December 6, 1999 and recorded in the Office of the Clerk of the County of Chautauqua on December 9, 1999 in Liber 2371 of Mortgages at page 690 (hereinafter referred to as the "Mortgage");

2. That pursuant to the power of sale of said Mortgage the premises encumbered by such Mortgage will be sold at public auction

by a licensed auctioneer on September 8, 2005 at 11:00 a.m. at the Town of Ellicott Courthouse, located at 215 S. Work Street, Falconer, New York 14733 the terms of sale to be announced thereat, a copy of said terms of sale being available prior to the sale from the plaintiff's counsel; and

3. That the terms of the sale shall include but are not limited to the following terms:

(a) Bids must be accompanied by a Ten Percent (10%) down payment in the form of cash, certified or official bank check made payable Uncle Sam Auctions and Realty, Inc. ("Auctioneer") and delivered to the Auctioneer at the time and place of sale;;

(b) The premises will be sold subject to any state of facts an inspection would disclose, it being understood the premises are sold in an "as is" and "where is" condition and

(c) The premises will be sold subject to any covenants, restrictions, easements, agreements, and reservations, if any, of record and to any and all violations thereof.

(d) The premises will be sold subject to a mortgage recorded December 9, 1999 in the Chautauqua County Clerk's Office in Liber 2371 of Mortgages, page 729.

(e) The premises will be sold subject to any building restrictions and zoning ordinances of the municipality in which said premises are situate and to any violation of the same.

4. That the record owner of the mortgaged property, as of the date of this notice, is Regal Holdings LLC; and

5. That the names of the subordinate lienors or holders of subordinate interests in the mortgaged property which the mortgagee seeks to foreclose which are recorded or of which the mortgagee has actual or constructive notice at the time of the filing of the notice of pendency, all of whom are holders of mortgages, judgments liens or tax warrants, entitled to notice of the sale are as follows:

LUMBERMENS MERCHANDISING CORPORATION

NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE

JEFFREY KESTER

6. That the owner has the right, up to and including the time of the sale, to redeem the mortgaged property upon payment to the mortgagee of the outstanding principal balance secured by the mortgage, together with interest accrued thereon, and all other sums due thereunder, including the costs of the sale and reasonable attorneys' fees and disbursements.

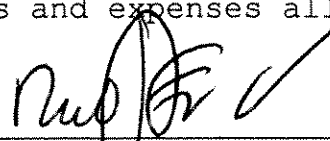
7. That as of August 15, 2005 the amount due and owing on the Mortgage is as follows:

Principal balance	\$ 829,772.37
Accrued interest	\$ 58,741.86
Accrued Late Charges	\$ 5,234.00
Real Estate Taxes	\$ 54,467.63
Other Fees	\$ 1,980.25
Water Charges	\$ 1,528.13
Attorneys Costs	\$ 1,966.45
Attorneys fees	<u>\$ 4,000.00</u>
Total Amount Due	\$ 957,690.69

8. That the mortgage property to be sold is situate in the Village of Falconer, Town of Ellicott, County of Chautauqua and State of New York and is commonly described as follows: Section Block and Lot Numbers 105-3-7 and 105-3-2.1 with an address of 171 S. Work Street; Section Block and Lot Number 105-3-6 with an address of S. Work Street; Section Block and Lot Number 106-1-1.2.1 with an address of E. Elmwood Avenue and as further described on the Attached Schedule A:

9. That the mortgaged property referenced above shall be sold in one parcel as is necessary to satisfy the amount due at the time of sale together with the costs and expenses allowed at law.

Dated July 27, 2005.



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Tel. No. (585)238-2061

## Schedule A - Legal Description

### FALCONER PROPERTIES

*ALL THAT TRACTOR PARCEL OF LAND* situated in the Village of Falconer, County of Chautauqua, State of New York, being part of Lot 11, Township 2 Range 11 of the Holland Land Company's survey and being more particularly described as follows: Beginning at a drill hole set in concrete at the intersection of the northeasterly street line of South Work Street and the northwesterly street line of East Elmwood Avenue; thence North 50°06'00" West along the northeasterly street line of South Work Street a distance of 468.81 feet to the southerly corner of lands conveyed to Royal Properties by deed recorded in the Chautauqua County Clerk's Office in Liber 2237 of Deeds at page 589; thence North 39°48'01" East along the southeasterly bounds of lands conveyed to said Royal Properties a distance of 119.90 feet to an iron rebar with cap found; thence North 50°06'00" West along the northeasterly bounds of lands conveyed to said Royal Properties by deeds recorded in the Chautauqua County Clerk's Office in Liber 2237 of Deeds at page 589 and Liber 2229 of Deeds at pages 62-64, a distance of 75.00 feet to an iron rebar with cap set; thence North 39°54'00" East a distance of 81.96 feet to a point; thence North 71°40'40" East a distance of 228.58 feet to a point on the southwesterly bounds of the former railroad right-of-way; thence North 49°53'00" West along the southwesterly bounds of the former railroad right-of-way a distance of 2.68 feet to the southerly bank of the Chadakoin River; thence North 53°11'23" East along the southerly bank of the Chadakoin River a distance of 67.73 feet to a point on the northeasterly bounds of the former railroad right-of-way; thence South 49°55'00" East along the northeasterly bounds of the former railroad right-of-way a distance of 39.00 feet to an iron rebar with cap previously set; thence South 49°55'00" East on a continuation of the last described course, a distance of 176.00 feet to an iron rebar with cap previously set; thence North 47°30'00" East still along the bounds of the former railroad right-of-way, a distance of 22.49 feet to an iron rebar with cap previously set; thence South 42°30'00" East along the northeasterly bounds of the former railroad right-of-way a distance of 157.16 feet to an iron rebar with cap set; thence South 47°30'00" West a distance of 141.64 feet to an iron rebar with cap set; thence South 82°46'21" West a distance of 133.71 feet to an iron pipe found; thence South 48°46'20" West a distance of 49.67 feet to an iron pipe found; thence South 49°21'23" East a distance of 190.52 feet to an iron rebar with cap set on the northwesterly street line of East Elmwood Avenue; thence South 47°30'00" West along the northwesterly street line of East Elmwood Avenue, a distance of 20.73 feet to a drill hole set in concrete; thence South 55°50'32" West still along the northwesterly street line of East Elmwood Avenue, a distance of 48.24 feet to a drill hole set in concrete; thence; South 47°30'00" West still along the northwesterly street line of East Elmwood Avenue a distance of 107.02 feet to the point of beginning, containing 4.609 acres of land more or less; according to a survey by Paul W. Schreckenpost, Licensed Land Surveyor, Falconer, New York, map dated July 13, 1999, and designated as Job #99-121.