

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven of
The Real Property Tax Law by the County of Chemung
affecting parcels located in the Towns of
ASHLAND, BALDWIN, BIG FLATS, CATLIN, CHEMUNG,
ELMIRA, ERIN, HORSEHEADS, SOUTHPORT, VAN ETTEN,
VETERAN, AND CITY OF ELMIRA

CERTIFICATE AS TO
NOTICE OF CLAIM

Index No.: _____

Justice Assigned: Hon. _____

Property SBL/Address: _____

Former Owner Name(s): _____

I, [name of clerk], Clerk of the Supreme Court, do hereby certify, that there is no notice of claim to surplus moneys in the above-entitled action on file, except the notice of claim of

- 1) [name of claimant 1], by [name of attorney], attorney, filed [date of filing];
 - 2) [name of claimant 2], by [name of attorney], attorney, filed [date of filing];
 - 3) [name of claimant 3], by [name of attorney], attorney, filed [date of filing];
- and
- 4) [name of claimant 3], by [name of attorney], attorney, filed [date of filing].

Dated: Chemung County, New York

_____, _____

(SEAL)

Hon. _____
Chemung County Court Clerk

STATE OF NEW YORK COUNTY COURT
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REFEREE'S REPORT OF
SURPLUS MONEYS

Index No.: _____

Subject Parcel's Tax Map #:
Town of _____

Tax Map # _____

TO THE COUNTY COURT OF THE STATE OF NEW YORK, COUNTY OF CHEMUNG:

In pursuance of an Order of Reference in the above-entitled proceeding signed by the Hon. [Justice Assigned] on [date of Order of Reference] and entered in the Office of the Clerk of the County of Chemung, whereby it was referred to the undersigned as Referee to ascertain and compute the amount due to the Claimant or any other person who has a lien on the surplus moneys and to ascertain the priorities of the liens.

1. I, [Name of Referee], the Referee in the said Order named, DO HEREBY REPORT that before proceeding to review the claims and documentary evidence I was first duly sworn faithfully and fairly to determine the questions referred to me and to make a just and true report thereon according to the best of my understanding; that I have computed and ascertained the amount due to the Claimant and to any other person who has a lien on the surplus moneys and to ascertain the priorities of the liens and that I find and according report:
2. Before proceeding with this matter, I duly took and subscribed the oath as prescribed by law.
3. I caused a copy of the Notice of Claim filed by the Claimant/Former Owner to be served by regular mail upon all the parties who have appeared in the action and all parties who have filed a Notice of Claim to submit detailed claims in writing. Copies of the notice with due proof of service thereof is annexed hereto and made a part hereof as Exhibit "A".
4. I have examined the Notice of Claim of the Claimant/Former Owner annexed hereto and made a part hereof as Exhibit "B".
5. I have examined the information in support of the application for surplus moneys together with exhibits, all as set forth on Exhibit "C".

6. I have examined the lien and judgment search submitted by the Claimant/Former Owner and the same is annexed hereto and made a part hereof as Exhibit "D".

7. That the surplus moneys herein paid in court amount to the sum of \$[Amount of Surplus] as evidenced by the Certificate of Surplus Funds of the Chemung County Treasurer annexed hereto and made a part hereof as Exhibit "E".

8. No claim to said surplus moneys has been filed except for the Claims set forth in detail on Exhibit "F" annexed hereto and made a part hereof.

9. The Claimant has consented to the amount of the claim filed by [Insert Name of Creditor/Claimant].

10. Based upon my review of the Notices of Claim and upon consent of the Claimant, I have ascertained and computed the amounts due to the claims for surplus moneys filed as follows:

[Insert name of creditor, with original amount due, plus statutory interest] [Once all creditors/claimants are listed, enter name of original claimant with the balance of surplus funds due to them] together with interest, less fees as calculated by the Chemung County Treasurer and less the Referee's fee of \$350.00.

11. After payment of the above amount due, the remaining balance together with interest and less any fees as calculated by the Chemung County Treasurer be paid to the Claimant [Insert Name of original Claimant/Former Owner].

12. No party or attorney was given notice of any hearing and no party was entitled to notice thereto.

Dated: Chemung County, New York

_____ , _____

Referee

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

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NOTICE OF CLAIM
SURPLUS MONIES

Subject Parcel's Tax Map #:
Town of _____

Tax Map # _____

To the Chemung County Court Clerk:

You will please take notice that _____
(Insert your name)

of _____, _____,
(Street Address) (Insert City/Town/Village; State; Zip Code)

one of the Defendants in the above-entitled actions, is entitled to the surplus monies, or a
portion thereof, arising from the sale made on the ____ day of _____, 20__ under a
judgment of this Court in the above-entitled action and that this claim amounts to _____
_____ Dollars (\$ _____) with interest thereon from the ____
day of _____, 20__, and is made by virtue of the fact that said
_____ is the owner of the equity of redemption and
(Your Name)

his/her said claim is next in priority after the Lien of the Plaintiff in this action.

Dated: _____, 20__

(Signature)

(Print your Name)

(Address)

(Telephone Number)

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

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NOTICE OF MOTION

Index No. _____

Property SBL/Address:

(Insert/Property Address)

MOTION MADE BY:

[Name of Claimant]

DATE, TIME and PLACE of
HEARING:

[At a date and time to be determined by the Court]

SUPPORTING PAPERS:

Affidavit of _____ sworn to
on the _____ day of _____, 20__, along
with Supporting Exhibits.

RELIEF DEMANDED:

Order directing the release of surplus money on
deposit relative to _____
[Address of Property]

FOUNDATIONS for RELIEF:

REAL PROPERTY TAX LAW §1197

Dated: _____
Chemung County, NY

(Signature of Claimant/Attorney)

(Print Name)

(Address)

(Telephone Number)

5. On _____, _____, the subject premises was sold at public auction
Month and Day Year

to _____ for the sum of \$_____.
Purchaser Dollar Amount

6. The delinquent real estate taxes were paid in full from the proceeds, with the remainder of the sale proceeds deposited with the Chemung County Treasurer.

7. Other than my claim, there are _____ other claims on file to the surplus monies. The County
No or Number

Clerk has issued a Certificate of Claims. See Exhibit C.

WHEREFORE, your deponent requests that the Chemung County Treasurer be directed to pay to Petitioner, herein, the amount of \$_____ being ALL / A PORTION of the
Dollar Amount Cross out one

remaining surplus funds on deposit with the said Chemung County Treasurer.

Dated:
Chemung County, NY

_____, 20____
(Date signed)

(Signature of Claimant/Attorney)

(Print Name)

(Address)

(Telephone Number)

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

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AFFIDAVIT OF SERVICE

Subject Parcel's Tax Map Number:

Town of _____

Tax Map # _____

STATE OF NEW YORK)
COUNTY OF CHEMUNG) ss.:

_____, hereby affirms under the penalties of perjury under
the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and
I understand that this document may be filed in an action or proceeding in a court of law.:

On _____, _____, I served a copy of my Notice of Claim, Notice of Motion an
Affidavit in Support of my Motion upon the following interested parties by depositing a true copy
of the aforesaid documents in a postpaid properly addressed envelope in a post office or official
depository under the exclusive care and custody of the United States Postal Service, as follows:

1. Chemung County Treasurer
320 E. Market Street
Elmira, NY 14901

2. See attached list for other lien holders and their respective mailing addresses.

Dated:
Chemung County, NY

_____, 20____
(Date signed)

(Signature of Claimant/Attorney)

(Print Name)

At a Special Term of County Court
held in and for the County of Chemung
on the ____ day of _____, _____

PRESENT:
HON. _____,
CHEMUNG COUNTY COURT JUDGE

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

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ORDER TO DISTRIBUTE
SURPLUS MONEY

Index No. _____

Property SBL/Address:

(Insert/Property Address)

Petitioner(s) _____ having brought a
(Name)

motion to distribute surplus money deposited with the Chemung County Treasurer; and this
Court having issued an order of reference dated _____, and the Referee
[Date]

having issued their report on _____; and according to the Referee's Report the amounts
[date]

due as a result of the claim(s) for surplus monies are as follows:

Now, having read and considered the Notice of Motion, the Affidavit of _____
[Name of Affiant]

sworn to on _____, and exhibits annexed thereto, the Certificate of the
[Date]

Chemung County Treasurer, showing that \$ _____ remains on deposit as
[Amount of surplus money]

surplus with respect to the subject premises; the Affidavit of Appearances or Notices of Claims
of _____, sworn to on _____, and upon the Referee's Report dated
[name of Affiant]

_____ showing that there are no other notices of claims to the surplus
[Date]

money and upon all papers and proceedings had herein, and the motion having come on to be
heard and due deliberation having been had thereon, it is hereby

ORDERED, that the Report of the Referee is confirmed; and it is further

ORDERED that the Chemung County Treasurer shall pay out and distribute the surplus
money in

her hands to the credit of this action, after deducting the fees and commissions allowed to her
by law as follows and in the following order of priority:

First: That she pay to _____, Esq. Referee in this proceeding the sum of
[Name]
\$350.00 as their fees as such Referee;

Second: That she pay _____, the balance of the money \$ _____
[Name] [Amount]
together with accrued interest.

Dated: Chemung County, New York
_____, _____

ENTER,

Hon. _____
Chemung County Court Judge

STATE OF NEW YORK COUNTY COURT
COUNTY OF CHEMUNG

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ORDER OF REFERENCE
APPOINTING REFEREE IN
SURPLUS MONEY
PROCEEDING

Index No. _____

Subject Parcel's Tax Map Number:

Town of _____

Tax Map # _____

The Report of Surplus Auction Proceeds of the Chemung County Treasurer dated
_____ was duly filed in the Chemung County Clerk's Office on
_____ and it appearing from the report and form that there is a surplus of
\$ _____ arising from the sale of the above-referenced subject premises at public
auction, which was thereafter paid into the account of the Chemung County Treasurer, and said
Report having been confirmed by Decision and Order of this Court,

Upon reading and filing the Notice of Claim of _____,
filed on _____, asserting a claim to the surplus moneys as a former owner of
the equity or redemption or as a creditor of the former owner;

Now, upon application of _____ claimant, to adjudicate the claims
of the respective claimants, it is hereby

ORDERED that _____ be and they hereby are
appointed Referee to ascertain and report the amount due to Claimants noted above or any
other person who has a lien on the surplus moneys, and to ascertain the priorities of liens, and
that the referee report thereon with all convenient speed but not later than
_____, so that a further order maybe made for the distribution of the surplus
moneys as may be just.

The Referee "may inquire into and determine all questions of law and fact, and consider
the equities of the claimants in a surplus money proceeding to the end that it may be decided in
such proceedings finally and on the merits to whom such surplus moneys belong" (Chase
Manhattan Mortg. Corp. v Hall, 18 AD3d 413, 414 [2d Dept 2005] [internal quotation marks and
citation omitted]); and it is further

ORDERED that in the event any of the named parties other than the former
homeowners shall claim the right to any portion of the surplus moneys, they shall submit
detailed claims in writing, under oath, to the Referee so appointed no later than _____;
and it is further

ORDERED that should a hearing be necessary, the referee shall hold the hearing of the issue to be reported upon at his office or other location to be determined by him, at a date and time to be determined by him, but not later than _____, and it is further

ORDERED that the referee shall be paid the total sum of \$350.00 to be paid by each of the claimants in equal shares from the surplus funds, within 10 days after service of a copy of the referee's report upon the claimants' attorneys. If a hearing is necessary, the referee may seek an additional fee. In addition, any distribution of surplus funds shall be subject to the payment of the County Treasurer's administrative fee as set forth in §8010 of the NYS Civil Practice Laws and Rules.

The foregoing constitutes the Decision and Order of the Court.

Dated: _____, _____

ENTER:

Hon. _____

Pursuant to CPLR