

Filed
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2020 FEB 25 PM 1:16

Blair M. Johnson
COUNTY CLERK HOWARD COUNTY
BY DEPUTY *Candy Roman*

NOTICE OF SUBSTITUTE TRUSTEE'S SALE

Assert and protect your rights as a member of the armed forces of the United States. If you or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately.

WHEREAS, Betty Barnett executed a Homestead Lien Contract and Deed of Trust (the "Deed of Trust") dated September 27, 2011, conveying to W. R. Collier, Trustee, the property (the "Property") hereinafter described to secure American State Bank, as Lender, in the payment of debt therein described, said Deed of Trust being recorded on October 4, 2011 under Document Number 2011-00005418, Book OPR, Volume 1238, Page 739, Official Public Records of Real Property of Howard County, Texas; and,

WHEREAS, the Property is situated in Howard County, Texas and is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, said Property or its address being commonly known as 209 Moore Rd. Big Spring, Texas 79720; and,

WHEREAS, the 118th Judicial District Court of Howard County, Texas, signed a Default Order Granting Petitioner's Application for an Expedited Order Under Rule 736, in cause number 54049 *In Re: Order for Foreclosure Concerning 209 Moore Road, Big Spring, Texas 79720 Under Tex. R. Civ. P. 736*, in which Prosperity Bank, successor to American State Bank, was Petitioner and Betty Barnett was Respondent, said Order dated January 30, 2020, a true and correct, conformed copy of said Order being attached hereto as Exhibit "B" and incorporated herein by reference; and,

WHEREAS, Prosperity Bank, whose mailing address is 402 Cypress, Abilene, Texas 79601, is the owner and holder of the indebtedness described in the Deed of Trust; and

WHEREAS, default has occurred in the payment of said indebtedness, and the same is now wholly due, and the owner and holder of said debt has requested the undersigned to sell said Property to satisfy said indebtedness; and

WHEREAS, the undersigned has been duly appointed substitute trustee under the provisions of said Deed of Trust;

NOW, THEREFORE, NOTICE IS HEREBY GIVEN that on Tuesday, the 7th day of April, 2020, the Property will be sold at public auction, in accordance with the terms of the Deed of Trust and the Texas Property Code. The location of the sale will be at the North Front Door of the Howard County Courthouse located in Big Spring, Howard County, Texas; or, if the preceding area is not the designated area, at the area most recently designated by the Howard County Commissioner's Court in accordance with §51.002 of the Texas Property Code, as amended. The sale will begin at 1:00 o'clock p.m. (which is the earliest time at which the sale will begin) or not later than three (3) hours after that time. The Property will be sold to the highest bidder for cash; except, however, that Prosperity Bank's bid will be by credit against the indebtedness owing to Prosperity Bank.


This sale shall be subject to any legal impediments to the sale of the Property and to any exceptions referenced in the Deed of Trust or appearing of record to the extent the same are still in effect and shall not cover any property that has been released from the lien of the Deed of Trust.

The Property will be sold "AS IS", and no warranties or representations, either express or implied, shall be conveyed, given or made at the sale. Prospective bidders are encouraged to consult with counsel of their choice, and to conduct an independent investigation of the nature and physical condition of the Property and of the status of all matters affecting title to, and encumbrances upon, the Property, prior to participating in the sale of the Property.

Prospective bidders are advised that the purchase price shall be due and payable, in cash, without delay on acceptance of the highest bid; except, however, that Prosperity Bank's bid will be by credit against the indebtedness owing to Prosperity Bank.

Prosperity Bank reserves the right to postpone, withdraw, or reschedule the sale for another day. In the event that the sale is postponed or rescheduled, notice of the date of any rescheduled Substitute Trustee's Sale will be re-posted and re-filed in accordance with the posting and filing requirements of the Texas Property Code. The re-posting or re-filing may be after the date originally scheduled for this sale.

WITNESS MY HAND THIS 25th day of February, 2020.



James R. Gravley, Substitute Trustee

Physical Address of Substitute Trustee:
402 Cypress, Suite 800
Abilene, Texas 79601

Mailing Address of Substitute Trustee
P.O. Box 3579
Abilene, Texas 79604

Phone: (325) 677-4190
Fax: (325) 677-4195
Email: jim@gravleyleggett.com

EXHIBIT "A"

Legal Description of Property

ALL THAT CERTAIN PARCEL AND PIECE OF LAND OUT OF AND PART OF THE NORTHEAST ONE-FOURTH (NE/4) OF SECTION NO. FORTY-FIVE (45) IN BLOCK NO. THIRTY-ONE (31), TOWNSHIP ONE (1) NORTH, T&P RY. CO. SURVEY IN HOWARD COUNTY, TEXAS:

BEGINNING AT THE SOUTHEAST CORNER OF A PARCEL OF LAND HERETOFORE OWNED BY PETE BANKS FOR BEGINNING CORNER OF THIS PARCEL;

THENCE EASTWARD, PARALLEL WITH THE NORTH BOUNDARY LINE OF SECTION 45 A DISTANCE OF 90 FEET FOR CORNER;

THENCE NORTHWARD, PARALLEL WITH THE EAST BOUNDARY LINE OF SAID SECTION 45 A DISTANCE OF 70 FEET TO POINT FOR NE CORNER OF THIS PARCEL;

THENCE WESTWARD, PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID SECTION 45 AND ALONG THE SOUTH BOUNDARY LINE OF A 0.154 ACRE TRACT HERETOFORE CONVEYED TO LUTHER P. WRIGHT ET UX. THROUGH DEED RECORDED IN VOLUME 281, PAGE 168, DEED RECORDS OF HOWARD COUNTY, TEXAS, A DISTANCE OF 90 FEET TO A 3/4" I.P. FOR THE SW CORNER OF THE 0.154 LUTHER WRIGHT TRACT AND THE NW CORNER OF THIS PARCEL;

THENCE SOUTHWARD, PARALLEL WITH THE EAST BOUNDARY LINE OF SAID SECTION 45 A DISTANCE OF 70 FEET TO THE PLACE OF BEGINNING.

TRACT 2:

ALL THAT CERTAIN PARCEL AND PIECE OF LAND OUT OF AND PART OF THE NORTHEAST ONE-FOURTH (N.E. 1/4) OF SECTION NO. FORTY-FIVE (45) IN BLOCK NO. THIRTY-ONE (31), TOWNSHIP ONE (1) NORTH, T. & P. RY CO. SURVEY IN HOWARD COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4" I.P. FROM WHICH A 1" I.P., THE N.E. CORNER OF SECTION 45, BLOCK 31, TSP 1-NORTH, T & P RY. CO. SURVEYS, HOWARD COUNTY, TEXAS, BEARS N. 14 DEG. 49' W. 449.2 FT. AND N. 74 DEG. 38' E. 876.7 FT. SAID 3/4" I.P. BEING THE S.W. CORNER OF A 0.372 ACRE TRACT IN THE NAME OF G.A. MOORE AND THE N.W. CORNER OF THIS TRACT; THENCE S. 14 DEG. 49' E. PARALLEL TO THE EAST LINE OF SECTION 45, 67.0 FT. TO A 3/4" I.P. FOR THE N.W. CORNER OF A 0.145 ACRE TRACT IN THE NAME OF ESTIL PETTY AND THE S.W. CORNER OF THIS TRACT.

THENCE N. 76 DEG. 27' E. ALONG THE NORTH LINE OF SAID ESTIL PETTY 0.145 ACRE TRACT, AND PARALLEL TO THE SOUTH RIGHT-OF-WAY LINE OF THE T. & P. R.R. CO., AT 90.0 FT. PASS THE N.E. CORNER OF SAID ESTIL PETTY 0.145 ACRE TRACT 100.0 FT. IN ALL TO A 3/4" I.P. FOR THE S.E. CORNER OF THIS TRACT.

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THENCE S. 76 DEG. 27' W. ALONG THE SOUTH LINE OF SAID G.A. MOORE 0.372 ACRE TRACT AND PARALLEL TO THE SOUTH RIGHT-OF-WAY LINE OF SAID T. & P. R.R. CO., 100.0 FT. TO THE PLACE OF BEGINNING, CONTAINING 0.154 ACRE OF LAND

The Real Property or its address is commonly known as 209 MOORE RD, BIG SPRING, TX 79720-0526.

ALL THAT CERTAIN PARCEL AND PIECE OF LAND OUT OF AND PART OF THE NORTHEAST ONE-FOURTH (NE/4) OF SECTION NO. FORTY-FIVE IN BLOCK NO. THIRTY-ONE (31), TOWNSHIP ONE (1) NORTH, T&P RY. CO. SURVEY IN HOWARD COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

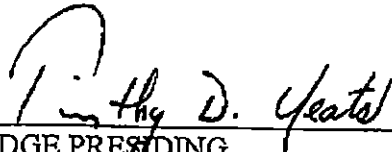
4. The lien to be foreclosed is indexed or recorded at Document Number 2011-00005418, filed and recorded on October 4, 2011 under Document Number No. 2011-00005418, Book OPR, Volume 1238, Page 739, Official Public Records of Real Property of Howard County, Texas, and recorded in the real property records of Howard County, Texas. The type of lien to be foreclosed is a home equity lien under Article XVI, Section 50(a)(6) of the Texas Constitution.
5. The material facts establishing Respondent's default are alleged in Petitioner's application and the supporting affidavit. Those facts are adopted by the court and incorporated by reference in this order.
6. Based upon the affidavit of counsel for Petitioner, no Respondent subject to this order is protected from foreclosure by the Servicemembers Civil Relief Act, 50 U.S.C., App. § 501 *et seq.*
7. Therefore, the Court grants Petitioner's motion for a default order under Texas Rules of Civil Procedure 736.7 and 736.8. Petitioner may proceed with foreclosure of the property described in Exhibit "A" attached hereto and incorporated herein by



reference, in accordance with applicable law and the contract or lien sought to be foreclosed.

8. This order is not subject to a motion for rehearing, a new trial, a bill of review, or an appeal. Any challenge to this order must be made in a separate, original proceeding filed in accordance with Texas Rule of Civil Procedure 736.11.
9. A conformed copy of this Order must be attached to the trustee or substitute trustee's foreclosure deed, in accordance with Texas Rule of Civil Procedure 736.12.

SIGNED THIS 30 day of January, 2020.



JUDGE PRESIDING

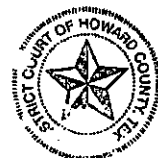


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The Real Property or its address is commonly known as 209 MOORE RD, BIG SPRING, TX 79720-0526.

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in my office.

Attest: 2/4/2020
JoAnna Gonzales District Clerk
Howard County, Texas

By: Chloe Hamley Deputy