

ASSERT AND PROTECT YOUR RIGHTS AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES. IF YOU OR YOUR SPOUSE IS SERVING IN ACTIVE MILITARY DUTY, INCLUDING ACTIVE MILITARY DUTY AS A MEMBER OF THE TEXAS NATIONAL GUARD, 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.

**NOTICE OF SALE BY SUBSTITUTE TRUSTEE**

STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLORADO

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**Note:** Retail Installment Contract dated August 15, 2007 executed and delivered by Oliver Johnson to Jim Walter Homes, Inc.

**Security Instrument:** Mechanic's Lien Contract with Power of Sale, dated August 15, 2007, executed and delivered by Oliver Johnson and Pamela Banks Johnson to Jim Walter Homes, Inc., to secure payment of that certain Retail Installment Contract, recorded in Volume 549, Page 039 of the Official Public Records of Colorado County, Texas, and as amended by that certain Mechanic's Lien Contract with Power of Sale recorded in Volume 568, Page 048, in Colorado County, Texas.

**Order Approving Abandonment of Real Property Pursuant to Section 351.051 of the Texas Estates Code** Order Approving Abandonment of Real Property Pursuant to Section 351.051 of the Texas Estates Code entered on May 27, 2021 in Cause No. 11465; styled *In Re: The Estate of Oliver Johnson, Deceased*, in the County Court of Colorado County, Texas.

**Original Creditor:** Jim Walter Homes, Inc.

**Current Holder:** The Bank of New York Mellon, as Indenture Trustee, for Mid-State Capital Corporation 2010-1 Trust

**Current Owner:** The Bank of New York Mellon, as Indenture Trustee, for Mid-State Capital Corporation 2010-1 Trust

**Mortgage Servicer:** New Rez LLC d/b/a Shellpoint Mortgage Servicing ("Servicer"), 75 Beattie Pl. #300, Greenville, SC 29601

**Appointed Substitute Trustees:** JIM MILLS, SUSAN MILLS, EMILY NORTHERN, ED HENDERSON, DONNA KING, SHEILA HORAK, ROBIN JOHNSON, DEBBY JURASEK, MARLEY ROSS

**Note:** *Each substitute trustee is authorized individually, to act alone* TRUSTEES OF TEXAS, 9065 JOLLYVILLE, SUITE 203A, AUSTIN, TX 78759

PROPERTY ADDRESS: 709 N McCarty Ave Eagle Lake, TX 77434	RP FILE NO. SHELL02-65	BORROWER: Johnson, Oliver & Pamela Banks
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*without the joinder of the other trustees.*

AND  
MEGAN L. RANDLE, EBBIE MURPHY  
SERVICE LINK, 3220 EL CAMINO REAL, IRVINE, CA 92602

The Substitute Trustees are authorized to sell the Premises at public venue to the highest bidder or bidders, for cash.

AND  
MEGAN RANDLE, EBBIE MURPHY  
AUCTION.COM, 1 MAUCHLY, IRVINE, CA 92618

AND  
SHELLEY NAIL, DONNA TROUT, KRISTINA MCCRARY, KEVIN KEY OR JAY JACOBS  
XOME, 750 TX-121, SUITE 100, LEWISVILLE, TX 75067

AND  
MEGAN L. RANDLE, EBBIE MURPHY  
COVIS REALTY BID, 3225 RAINBOW DRIVE, SUITE 248-B,  
RAINBOW CITY, AL 35906

AND  
T. J. RINEY, H. HOOPER, S.G. HARVEY, B.K. PACKARD, M. SANTOYO  
5420 LBJ FREEWAY, SUITE 220, DALLAS, TX 75225

**Property to be sold:**

709 N McCarty Ave, Eagle Lake, TX 77434, and as further described in Exhibit A attached hereto, along with the improvements on such real property and any after acquired permanent improvements or title to such improvements and/or real property (the "Premises" as described in §9.604 of the Texas Uniform Commercial Code).

**Date of Sale:**

**Tuesday, July 6, 2021.**

**Time of Sale:**

The sale will begin no earlier than **10:00 a.m.** and no later than three (3) hours thereafter.

**Location of Sale:**

At the **County Courthouse in Colorado County, Texas**, foyer inside the main entrance of the Colorado County Annex building, unless the location of the sale has been otherwise designated to a specific location by the Commissioner's Court of Colorado County, or if the preceding area is no longer the designated area, at the area most recently designated by the County Commissioner's Court.

**Terms of Sale:**

The sale will be conducted as a public auction to the highest bidder for cash, subject to the provisions of the Mechanic's Lien Contract with Power of Sale permitting the beneficiary thereunder to have the bid credited to the note up to the amount of the unpaid debt secured by the Mechanic's Lien Contract with Power of Sale at the time of sale.

<b>PROPERTY ADDRESS:</b> 709 N McCarty Ave Eagle Lake, TX 77434	<b>RP FILE NO. SHELL02-65</b>	<b>BORROWER:</b> Johnson, Oliver & Pamela Banks
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Those desiring to purchase the property will need to demonstrate their ability to pay their bid immediately in cash if their bid is accepted.

The sale will be made expressly subject to any title matters set forth in the Security Instrument, but prospective bidders are reminded that by law the sale will necessarily be made subject to all prior matters of record affecting the property, if any, to the extent that they remain in force and effect and have not been subordinated to the Security Instrument. The sale shall not cover any part of the property that has been released of public record from the lien of the Security Instrument. Prospective bidders are strongly urged to examine the applicable property records to determine the nature and extent of such matters, if any.

Pursuant to the Security Instrument, the beneficiary has the right to direct the Trustee to sell the property in one or more parcels and/or to sell all or only part of the property.

Pursuant to section 51.009 of the Texas Property Code, the property will be sold in "as is, where is" condition, without any express or implied warranties, except as to the warranties of title (if any) provided for under the Mechanic's Lien Contract with Power of Sale. Prospective bidders are advised to conduct an independent investigation of the nature and physical condition of the property.

Pursuant to section 51.0075 of the Texas Property Code, the trustee reserves the right to set further reasonable conditions for conducting the sale. Any such further conditions shall be announced before bidding is opened for the first sale of the day held by the trustee or any substitute trustee.

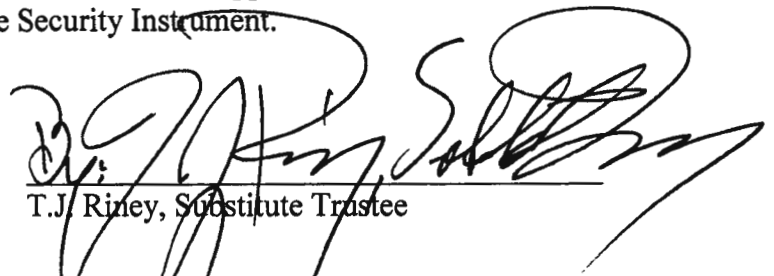
**Type of Sale:**

The sale is a non-judicial sale being conducted pursuant to the power of sale granted by the Security Instrument executed by Oliver Johnson and Pamela Banks Johnson.

**Default and Notice:**

Default has been made in payment of the Note and Security Instrument and the Note is now unpaid, delinquent and in default. All required notices have been given to Oliver Johnson and Pamela Banks Johnson and any and all other necessary parties with regard to the defaulted indebtedness. Servicer has requested the undersigned, substitute trustee, to post, file and give notice of foreclosure of the Security Instrument and the lien thereof in accordance with applicable Texas law and the terms and provisions of the Security Instrument.

Dated: June 4, 2021.



T.J. Riney, Substitute Trustee

<b>PROPERTY ADDRESS:</b> 709 N McCarty Ave Eagle Lake, TX 77434	<b>RP FILE NO. SHELL02-65</b>	<b>BORROWER:</b> Johnson, Oliver & Pamela Banks
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**AFTER RECORDING, PLEASE RETURN TO:**

Riney Packard, PLLC

Attn: T.J. Riney

Two Lincoln Centre

5420 LBJ Freeway, Suite 220

Dallas, Texas 75240

<b>PROPERTY ADDRESS:</b> 709 N McCarty Ave Eagle Lake, TX 77434	<b>RP FILE NO. SHELL02-65</b>	<b>BORROWER:</b> Johnson, Oliver & Pamela Banks
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EXHIBIT "A"

STATE OF TEXAS

COUNTY OF COLORADO

Land Description  
0.057 Acres

BEING a tract or parcel containing 0.057 acres of land situated in Block 59 of the City of Eagle Lake, Colorado County, Texas and being that same land described in Deed dated January 16, 1901 from J.W. McCarty, et ux to Sarah Rhodes, recorded in Volume 24, Page 112, Colorado County Deed Records. Said 0.057 acre tract being described more particularly by metes and bounds as follows:

BEGINNING at a 1/4" iron rod set for the Southeast corner of the original Sarah Rhodes tract and the Southeast corner of the herein described 0.057 acre tract, located at a point on the Northwest line of McCarty Street from which the Southeast corner of Block 59 bears S 39° 00' 00" W a distance of 160.00 feet, said iron rod also being the Northeast corner of a Pamela Banks tract as recorded in Volume 236, Page 751, Official Records;

THENCE departing said street and along the Northerly line of the Banks tract, N 56° 00' 00" W a distance of 100.00 feet to a 1/4" iron rod set in a fence line for the Northwest corner of the Banks tract and being the Southwest corner of the herein described tract, also being on the Easterly line of the Klemons Szymanski tract as described in Volume 319, Page 808, Deed Records;

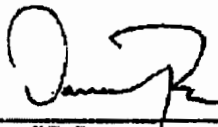
THENCE along the Easterly line of the Szymanski tract, which generally follows an existing fence, N 39° 00' 00" E a distance of 25.00 feet to a 1/4" iron rod set for the Northwest corner of the herein described tract and being the Southwest corner of another Pamela Banks tract as recorded in Volume 343, Page 407, Official Records;

THENCE along the Southerly line of the second Pamela Banks tract, S 56° 00' 00" E a distance of 100.00 feet to a 1/4" iron rod set on the Northwest line of McCarty Street for the Northeast corner of the herein described tract;

THENCE along the Northwest line of McCarty Street, S 39° 00' 00" W a distance of 25.00 feet to the POINT OF BEGINNING, containing 0.057 acres of land.

Notes:

(1) Survey plat to accompany this description



Date: May 18, 2007

Darrell D. Rau  
Registered Professional Land Surveyor  
Registration No. 4173



PROPERTY ADDRESS: 709 N McCarty Ave Eagle Lake, TX 77434	RP FILE NO. SHELL02-65	BORROWER: Johnson, Oliver & Pamela Banks
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CAUSE NO. 11465

IN RE: THE ESTATE OF OLIVER ) IN THE COUNTY COURT  
JOHNSON, )  
 )  
DECEASED ) COLORADO COUNTY, TEXAS

**ORDER APPROVING ABANDONMENT OF REAL PROPERTY  
PURSUANT TO SECTION 351.051 OF THE TEXAS ESTATES CODE**

On this day the Court considered the Application to Abandon Real Property pursuant to Section 351.051 of the Texas Estates Code and finds the following:

1. The citation has been issued and served as required by law;
2. Claimant, NewRez LLC, F/K/A New Penn Financial, LLC, as servicer for The Bank of New York Mellon, as Indenture Trustee, for Mid-State Capital Corporation 2010-1 Trust, presented its Claim to the Administrator of the Estate of Oliver Johnson, Deceased, in the sum of \$169,751.95, which was allowed by the Administrator on January 8, 2021 and approved by this Court on January 25, 2021. After review of the Payoff and County Appraisal District record for assessed value and property tax arrearage attached to the Application, the Court finds there is no equity in the property.
3. The personal representative has not been able to pay the maturities which have accrued on the debt according to the terms of the Note and Deed of Trust; that said Note is in default and has been for quite some time;
4. There are no other debts of the Estate related to the Real Property that have a preference over the Note and Deed of Trust of Claimant;
5. The property which is the subject of each Claimant's Note and Deed of Trust is more commonly known as 709 N. McCarty Ave., Eagle Lake, Colorado County, Texas 77434 and more particularly described as follows:

STATE OF TEXAS  
COUNTY OF COLORADO

Land Description  
0.057 Acres

BEING a tract or parcel containing 0.057 acres of land situated in Block 59 of the City of Eagle Lake, Colorado County, Texas and being that same land described in Deed dated January 16, 1901 from J.W. McCarty, et ux to Sarah Rhodes, recorded in Volume 24, Page 112, Colorado County Deed Records. Said 0.057 acre tract being described more particularly by notes and bounds as follows:

BEGINNING at a 1/4" iron rod set for the Southeast corner of the original Sarah Rhodes tract and the Southeast corner of the herein described 0.057 acre tract, located at a point on the Northwest line of McCarty Street from which the Southeast corner of Block 59 bears S 39° 00' 00" W a distance of 160.00 feet, said iron rod also being the Northeast corner of a Pamela Banks tract as recorded in Volume 236, Page 751, Official Records;

THENCE departing said street and along the Northernly line of the Banks tract, N 56° 00' 00" W a distance of 100.00 feet to a 1/4" iron rod set in a fence line for the Northwest corner of the Banks tract and being the Southwest corner of the herein described tract, also being on the Easternly line of the Klemons Szymanski tract as described in Volume 319, Page 804, Deed Records;

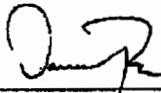
THENCE along the Easternly line of the Szymanski tract, which generally follows an existing fence, N 39° 00' 00" E a distance of 25.00 feet to a 1/4" iron rod set for the Northwest corner of the herein described tract and being the Southwest corner of another Pamela Banks tract as recorded in Volume 343, Page 407, Official Records;

THENCE along the Southernly line of the second Pamela Banks tract, S 56° 00' 00" E a distance of 100.00 feet to a 1/4" iron rod set on the Northwest line of McCarty Street for the Northern corner of the herein described tract;

THENCE along the Northwest line of McCarty Street, S 39° 00' 00" W a distance of 25.00 feet to the POINT OF BEGINNING, containing 0.057 acres of land.

Notes:

- (1) Survey plat to accompany this description



Darrell D. Rau  
Registered Professional Land Surveyor  
Registration No. 4173

Date: May 18, 2007



IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED, by the Court that the Administrator is hereby allowed to abandon the property from Administration and that the Secured Party is hereby allowed to foreclose its interest in the real property without further order of this Court.

SIGNED this 27<sup>th</sup> day of May, 2021

~~PRESIDING JUDGE~~

APPROVED:

/s/ Hayden Hooper  
Hayden Hooper, Temporary Dependent  
Administrator

FILED FOR RECORD  
COLORADO COUNTY, TX  
2021 JUN 15 PM 2:13  
KIMBERLY MENKE  
COUNTY CLERK  
*km*