

2022 APR 11 AM 10:41

KIMBERLY MENKE
COUNTY CLERK

NOTICE OF FORECLOSURE SALE

Notice is hereby given of a public non-judicial foreclosure sale.

1. **Property To Be Sold.** The property to be sold is described as follows:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF
2. **Date, Time, and Place of Sale.** The sale is scheduled to be held at the following date, time, and place:

Date: May 3, 2022

Time: The sale shall begin no earlier than 10:00 A.M. or no later than three hours thereafter. The sale shall be completed by no later than 4:00 P.M.

Place: COLORADO County, in the foyer, inside the main entrance, of the Colorado County Annex Building in Columbus, Texas or at the location and address designated by the Commissioners Court of said county, pursuant to 51.002 of the Texas Property Code as the location and address where the sale is to be held. The sale shall take place in the area designated by the Commissioners Court, pursuant to Section 51.002 of the Texas Property Code, as the place where foreclosure sales are to take place. If no place is designated by the Commissioners Court, sale will be conducted at the place where the Notice of Trustee's Sale was posted.

3. **Terms of Sale:** The sale will be conducted as a public auction to the highest bidder for cash, subject to the provisions of the deed of trust permitting the beneficiary thereunder to have the bid credited to the note up to the amount of the unpaid debt secured by the deed of trust at the time of sale. Those desiring to purchase the property will need to demonstrate their ability to pay cash on the day the property is sold. If a purchaser desires to pay with cashier's checks, they should be made payable to Anderson Vela, L.L.P. or endorsed in accordance with the instructions by the Trustee. The purchase price in a sale held by the undersigned herein is payable immediately on acceptance of the bid by the undersigned trustee or substitute trustee. The sale will be made expressly subject to any title matters set forth in the deed of trust, 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 deed of trust. For the avoidance of doubt, the Foreclosure Sale will not cover any part of the Property that has been released of public record from the lien and/or security interest of the Deed of Trust. Prospective bidders are strongly urged to examine the applicable property records to determine the nature and extent of such matters, if any. Pursuant to section 51.0075(a) of the Texas Property Code, Substitute Trustee reserves the right to set further reasonable conditions for conducting the Foreclosure Sale. Any such further conditions shall be announced before bidding is opened for the first sale of the day held by Substitute Trustee. If the Foreclosure Sale is passed, notice of the date of any rescheduled foreclosure sale will be reposted and refiled in accordance with the posting and filing requirements of the Deed of Trust and the Texas Property Code.

4. The Deed of Trust may encumber both real and personal property. Notice is hereby given of Holder's election to proceed against and sell both the real property and any personal property described in the Deed of Trust in accordance with the Holder's rights and remedies under the Deed of Trust and Section 9.604 of the Texas Business and Commerce Code.

5. 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 deed of trust. Prospective bidders are advised to conduct an independent investigation 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.

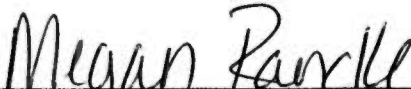
6. **Type of Sale.** The sale is a non-judicial deed of trust lien and security interest foreclosure sale being conducted pursuant to the power of sale granted by the Deed of Trust/Security Instrument ("Deed of Trust") executed by Anna M. Hailey and Roderick E. Hailey ("Debtor"). Said Deed of Trust secures a Promissory Note/Loan Agreement, and any renewals, extensions or modifications thereof, dated February 20, 2007 and executed by Debtor in the Original Principal Amount of \$80,091.35. The current beneficiary of the Deed of Trust is U.S. Bank Trust National Association, as Trustee of Cabana Series V Trust, 323 Fifth Street, Eureka, CA 95501. The Deed of Trust is dated February 20, 2007, designating Kimberly Kitchens as the Original Trustee and is recorded in the office of the County Clerk of COLORADO County, Texas, under Volume 551, Page 216, of the Real Property Records of COLORADO County, Texas. The foreclosure of this mortgage is being administered by a mortgage servicer representing the mortgagee under a servicing agreement. Questions concerning the sale may be directed to the undersigned, Richard E. Anderson, 4920 Westport Drive, The Colony, Texas 75056, who sent this notice, or to the mortgage servicer, SN Servicing Corporation, 323 Fifth Street, Eureka, CA 95501.

7. **Default and Request To Act.** Default has occurred under the deed of trust, and the beneficiary has requested me, as Substitute Trustee, to conduct this sale. Notice is given that before the sale the beneficiary may appoint another person substitute trustee to conduct the sale.

8. **Assert and protect your rights as a member of the armed forces of the United States.** If you are 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.

DATED

04/11/22


Megan Randle, Debby Jurasek, Ebbie Murphy,
Richard Anderson, Ray Vela or Cesar DeLaGarza

4920 Westport Drive
The Colony, Texas 75056
214.276.1545 - telephone
214.276.1546 - facsimile
Substitute Trustees

Exhibit A

FIELD NOTES OF A SURVEY OF A 0.738 ACRE TRACT BEING A PART OF LOT NO. 4 OF THE J.H. MCCREARY AND MRS. LOTTIE MCCARTY SUBDIVISION (UNRECORDED) IN THE CITY OF EAGLE LAKE OUT OF THE P. REELS SURVEY, ABSTRACT NO. 475, COLORADO COUNTY, TEXAS, SAID 0.738 ACRE TRACT BEING THAT SAME PROPERTY DESCRIBED IN A DEED DATED NOVEMBER 7, 1927 TO JOE LEE PEREZ AND WIFE SHANNAN PEREZ, RECORDED IN VOLUME 243, PAGE 618, COLORADO COUNTY OFFICIAL RECORDS FOR WHICH REFERENCE IS MADE AND THE SAID 0.738 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO WIT; BEGINNING AT A 1/2 INCH IRON ROD FOUND (CALLED FOR IN RECORD DEED) FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT IN THE NORTHWEST LINE OF U.S. HIGHWAY NO. 90-A (BEING ALSO KNOWN AS SOUTH MCCARTY), SAID CORNER BEING ALSO THE SOUTHWEST CORNER OF A TRACT DESCRIBED IN A DEED TO MELVIN STANCK, ET UX, VOLUME 308, PAGE 874, COLORADO COUNTY OFFICIAL RECORDS; THENCE N 19 DEG. 48' 24" W A DISTANCE OF 228.00 FEET (CALLED N 11 DEG. 18' 24" W-228.00') WITH THE SOUTHWEST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE NORTHEAST LINE OF THE SAID STANCK TRACT TO A 5/8 INCH IRON ROD SET (CAPPED FRANK SURVEYING) FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAID CORNER BEING ALSO THE NORTHEAST CORNER OF THE SAID STANCK TRACT AND BEING ALSO IN THE SOUTHWEST LINE OF A 20 FOOT ALLEY; THENCE N 74 DEG. 00' 30" E A DISTANCE OF 128.41 FEET (CALLED N 74 DEG. 00' 30" E-128.41') WITH THE NORTHWEST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE SOUTHWEST LINE OF SAID ALLEY TO A 1-1/2 INCH IRON PIPE FOUND (CALLED FOR IN RECORD DEED) FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, CORNER BEING ALSO THE NORTHWEST CORNER OF A CALLED 0.783 ACRE TRACT DESCRIBED IN A DEED TO EDWARD BARZIZA, VOLUME 418, PAGE 236, COLORADO COUNTY OFFICIAL RECORDS THENCE S 22 DEG. 07' 14" E A DISTANCE OF 228.26 FEET (CALLED S 19 DEG. 38' 14" E-227.12') WITH THE NORTHEAST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE SOUTHWEST LINE OF THE SAID 0.783 ACRE TRACT TO A 1-1/2 INCH IRON PIPE FOUND (CALLED FOR IN RECORD DEED) FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, CORNER BEING ALSO THE SOUTHWEST CORNER OF THE SAID 0.783 ACRE TRACT, CORNER BEING ALSO IN THE NORTHWEST LINE OF SAID U.S. HIGHWAY NO. 90-A; THENCE S 73 DEG. 00' 00" W A DISTANCE OF 158.42 FEET (CALLED S 73 DEG. 00' 00" W-158.42') WITH THE NORTHWEST LINE OF SAID U.S. HIGHWAY NO. 90-A, SAME BEING THE SOUTHWEST LINE OF THE HEREIN DESCRIBED TRACT TO THE PLACE OF BEGINNING, CONTAINING 0.738 ACRE OF LAND.

CAUSE NO. 25952

**In Re: Order of Foreclosure
Concerning
709 S MCCARTY AVE
EAGLE LAKE, TX 77434**

IN THE DISTRICT COURT

Under Tex. R. Civ. P. 736

**Petitioner: CITIBANK, N.A., AS TRUSTEE
FOR CMLTI ASSET TRUST, its successors
and assigns, by and through Robert D.
Forster, II, its appointed Substitute Trustee**

OF COLORADO COUNTY, TEXAS

**Respondent(s): ANNA M HAILEY and
RODERICK E HAILEY**

25th JUDICIAL DISTRICT

DEFAULT ORDER

1. On this day, the Court considered Petitioner's motion for a default order granting its application for an expedited order under Rule 736. Petitioner's application complies with the requirements of Texas-Rule of Civil Procedure 736.1.

2. The name and last known address of each Respondent subject to this order is:

**ANNA M HAILEY
709 S MCCARTY AVE
EAGLE LAKE, TX 77434**

**RODERICK E HAILEY
709 S MCCARTY AVE
EAGLE LAKE, TX 77434**

Each Respondent was properly served with the citation, but none filed a response within the time required by law. The return of service for each Respondent has been on file with the court for at least ten days.

3. The property that is the subject of this foreclosure proceeding is commonly known as 709 S MCCARTY, EAGLE LAKE, TX 77434 with the following legal description:

**FIELD NOTES OF A SURVEY OF A 0.738 ACRE TRACT BEING A PART OF
LOT NO. 4 OF THE J.H. MCCREARY AND MRS. LOTTIE MCCARTY
SUBDIVISION (UNRECORDED) IN THE CITY OF EAGLE LAKE OUT OF THE
P. REELS SURVEY, ABSTRACT NO. 475, COLORADO COUNTY, TEXAS, SAID**

0.738 ACRE TRACT BEING THAT SAME PROPERTY DESCRIBED IN A DEED DATED NOVEMBER 7, 1997 TO JOE LEE PEREZ AND WIFE SHANNAN PEREZ, RECORDED IN VOLUME 243, PAGE 618, COLORADO COUNTY OFFICIAL RECORDS FOR WHICH REFERENCE IS MADE AND THE SAID 0.728 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO WIT; BEGINNING AT A 1/2 INCH IRON ROD FOUND (CALLED FOR IN RECORD DEED) FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT IN THE NORTHWEST LINE OF U.S. HIGHWAY NO. 90-A (BEING ALSO KNOWN AS SOUTH MCCARTY), SAID CORNER BEING ALSO THE SOUTHEAST CORNER OF A TRACT DESCRIBED IN A DEED TO MELVIN STANCIK, ET UX, VOLUME 398, PAGE 874, COLORADO COUNTY OFFICIAL RECORDS; THENCE N 13 DEG, 46' 24" W A DISTANCE OF 228.00 FEET (CALLED N 11 DEG, 19' 24" W-228.00') WITH THE SOUTHWEST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, THE SOUTHWEST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE NORTHEAST LINE OF THE SAID STANCIK TRACT TO A 5/8 INCH IRON ROD SET (CAPPED FRANK SURVEYING) FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAID CORNER BEING ALSO THE NORTHEAST CORNER OF THE SAID STANCIK TRACT AND BEING ALSO IN THE SOUTHEAST LINE OF A 20 FOOT ALLEY; THENCE N 74 DEG. 02' 30" E A DISTANCE OF 125.41 FEET (CALLED N 74 DEG. 00' 30" E-125.41') WITH THE NORTHWEST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE SOUTHEAST LINE OF SAID ALLEY TO A 1-1/2 INCH IRON PIPE FOUND (CALLED FOR IN RECORD DEED) FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, CORNER BEING ALSO THE NORTHWEST CORNER OF A CALLED 0.753 ACRE TRACT DESCRIBED IN A DEED TO EDWARD BARZIZA, VOLUME 415, PAGE 235, COLORADO COUNTY OFFICIAL RECORDS THENCE S 22 DEG. 07' 14" E A DISTANCE OF 226.26 FEET (CALLED S 19 DEG. 39' 14" E-227.12') WITH THE NORTHEAST LINE OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, SAME BEING THE SOUTHWEST LINE OF THE SAID 0.753 ACRE TRACT TO A 1-1/2 INCH IRON PIPE FOUND (CALLED FOR IN RECORD DEED) FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED 0.738 ACRE TRACT, CORNER BEING ALSO THE SOUTHWEST CORNER OF THE SAID 0.753 ACRE TRACT, CORNER BEING ALSO IN THE NORTHWEST LINE OF SAID U.S. HIGHWAY NO. 90-A; THENCE S 73 DEG. 00' 00" W A DISTANCE OF 158.42 FEET (CALLED S 73 DEG. 00' 00" W-158.47') WITH THE NORTHWEST LINE OF SAID U.S. HIGHWAY NO. 90-A, SAME BEING THE SOUTHEAST LINE OF THE HEREIN DESCRIBED TRACT TO THE PLACE OF BEGINNING, CONTAINING 0.738 ACRE OF LAND.

4. The lien to be foreclosed is indexed or recorded at VOLUME 551, PAGE 216 and recorded in the real property records of COLORADO County, Texas.

5. The material facts establishing Respondent('s/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 on the declaration of Petitioner, no Respondent subject 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, and its successors and/or assigns may proceed with foreclosure of the property described above in accordance with the applicable law and the loan agreement, 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.

Signed this 15 day of September, 2021


JUDGE PRESIDING

Respectfully submitted,

**BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP**

/s/ James A. Frappier
James A. Frappier
State Bar No. 24116385
4004 Belt Line Road, Suite 100
Addison, TX 75001
Phone: 972-341-0527
Fax: 972-341-0734
AustinF@bdfgroup.com

ATTORNEY FOR PETITIONER

FILED

SEP 15 2021

at 1:20 o'clock P.M.
Linda Holman, Clerk L.H.
DISTRICT COURT COLORADO COUNTY, TX