

19-005fc

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SHELBY COUNTY, TEXAS

2019 FEB -8 PM 3:05

JENNIFER L. FOUNTAIN
COUNTY CLERK

BY  DEPUTY

**NOTICE OF ACCELERATOR AND
NOTICE OF FORECLOSURE SALE BY TRUSTEE**

Date: February 8, 2019

Trustee: W. Keith Swearingen, 304 US Hwy. 69 South, Post Office Box 1139, Huntington, Angelina County, Texas 75949-1139

Lender: Texas State Bank, Joaquin, Texas, 163 Cass-Caid, Center, Shelby County, Texas 75935

Holder of Note: American State Bank (successor in interest to Texas State Bank, Joquin, Texas, via merger on February 4, 2019), 163 Cass-Caid, Center, Shelby County, Texas 75935

Beneficiary: American State Bank (successor in interest to Texas State Bank, Joaquin, Texas, via merger on February 4, 2019), 163 Cass-Caid, Center, Shelby County, Texas 75935

Note:

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|----------------------------|--|
| Date: | October 12, 2011 |
| Original principal amount: | \$ 42,800.00 |
| Borrower: | Rodney Johniken |
| Lender: | Texas State Bank, Joaquin, Texas |
| TSB Mortgage Loan Number: | 300816 |
| Original Maturity date: | October 12, 2031 |
| Amount owing on Note: | As of February 8, 2019, the sum of \$34,677.10 |

is due and owing under the Note for the balance of the unpaid principal, accrued interest, and late charges secured for repayment by the below described Deed of Trust. Also, interest shall accrue daily after February 8, 2019, in the amount of \$6.48 on the unpaid principal balance.

Notice of Acceleration: Lender was at all times prior to February 4, 2019, the holder of the Note, and Lender has on January 28, 2019, accelerated the unpaid principal balance of the Note together with all sums secured by the Deed of Trust to be immediately due and owing on account of defaults by the Borrower in the performance of the Note and the Deed of Trust, of which Borrower is hereby given notice of acceleration. Prior to acceleration, Lender gave Borrower notice of default on December 19, 2018, of the defaults under the Note, and gave Borrower the opportunity to cure said defaults for a period of time through 5 :00 o'clock p.m. on Friday, January 25, 2019, and yet given a period of time of more than 30 calendar days to cure such defaults, the Borrower wholly failed to cure the same. On February 4, 2019, Texas State Bank, Joaquin, Texas, was acquired by American State Bank via merger of the two Texas banking corporations, and American State Bank as the survivor of the merger is the successor in interest in and to all assets, property and rights to Texas State Bank, Joaquin, Texas, and is the current Holder of the Note and Beneficiary under the Deed of Trust as of the date of filing this Notice of Foreclosure Sale by Trustee.

Deed of Trust: One certain Deed of Trust ("Deed of Trust") dated October 12, 2011, made by Rodney Johniken, a single person (herein called "Grantor" or "Borrower"), conveying unto W. Keith Swearingen, as Trustee, for the benefit of Lender, Texas State Bank, Joaquin, Texas certain real property & improvements thereon (the "Property") described in the said Deed of Trust which was filed of record on October 12, 2011, with the Office of the County Clerk of Shelby, Texas under Clerk's Instrument Number 2011008397 in the Official Public Records of Shelby, Texas (reference to which is hereby made for any and all purposes, including incorporation and identification herein as though the said Deed of Trust was copied verbatim herein)

Property (and improvements situated thereon): BEING 0.9156 acre, more or less, out of the JOHN ENGLISH SURVEY, ABSTRACT NO. 177, in Shelby County, Texas, and being more particularly described in Exhibit "A" which is attached hereto, incorporated herein by reference, and made a part hereof for any and all purpose, the same as if copied herein verbatim.

County: Shelby County, Texas

Date of Sale: Tuesday, March 5, 2019

Time of Sale: 11:15 o'clock a.m., central time zone, or no later than three hours thereafter.

Place of Sale: The sale will be conducted on the front steps of the Shelby County Courthouse located at 200 San Augustine Street in Center, Shelby County, Texas 75935.

Terms of Sale:

- A. 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.
- B. Those desiring to purchase the Property will need to demonstrate their ability to pay cash on the day the property is sold.
- C. 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. The sale shall not cover any part of the Property that has been released of public record from the lien 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.
- D. Pursuant to the Deed of Trust, 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.
- E. 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 nature and physical condition of the Property.
- F. 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.

Type of Sale: The sale is a nonjudicial deed-of-trust lien foreclosure sale being conducted pursuant to the power of sale granted by the Deed of Trust executed by Rodney Johniken.

Obligations Secured: The Deed of Trust provides that it secures the payment of the indebtedness evidenced by the Note in the original principal amount of \$42,800.00 executed by Borrower and payable to the order of Texas State Bank, Joaquin, Texas (herein called “Lender”) owing by Rodney Johniken to Texas State Bank. American State Bank (the “Beneficiary”) as successor in interest to Texas State Bank, Joaquin, Texas via merger on February 4, 2019, is the current owner and holder of the Note and is the beneficiary under the Deed of Trust. **As of February 8, 2019, there is owed to American State Bank, the Beneficiary and the Holder of the Note, the total sum in the amount of \$34,677.10 secured by the Deed of Trust on account of the unpaid principal balance, accrued interest, late charges.**

Questions Concerning Sale: Questions concerning the sale may be directed to the undersigned or to the beneficiary, American State Bank at:
American State Bank

Attn: W. Keith Swearingen, Its Vice-President
304 US Hwy 69 South – P O Box 1139
Huntington, Texas 75949-1139

Voice: (936) 422-3315 Cell: (936) 635-1589 Fax (936) 422-3271

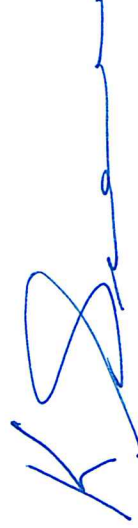
E-mail: kswearingen@asbtx.com

Default and Request to Act: Default has occurred under the Note secured by the Deed of Trust, and American State Bank, as the Beneficiary under the Deed of Trust and as the Holder of the Note, has requested me, as Trustee to conduct this sale. Notice is given that before the sale the beneficiary may appoint another person substitute trustee to conduct the sale.

ACTIVE MILITARY DUTY NOTICE

A debtor who is serving on active military duty may have special rights or relief related to this notice under federal law, including the Servicemembers Civil Relief Act (50 USC § 501 et seq.) and state law, including §51.015 Texas Property Code. 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.

Dated this the 8th day of February, 2019.



W. KEITH SWEARINGEN, Trustee
304 US Hwy 69 South – P O Box 1139
Huntington, Texas 75949-1139
E-mail: kswearingen@asbtx.com
Voice: (936) 422-3315
Cell: (936) 635-1589
Fax: (936) 422-3271

EXHIBIT "A"

BEING 0.9156 acre of land, more or less, a part of the JOHN ENGLISH SURVEY, A-177, Shelby County, Texas, and being the land described in the Warranty Deed from Jeremy H. Pope and wife, Tiffany M. Pope, to James Carroll dated September 1, 2009, recorded under Instrument No. 2009007683, Official Public Records, Shelby County, Texas; and being described by metes and bounds as follows, to-wit:

BEGINNING at a 3/4 inch pipe found for the NWC of the above referenced tract of land on the West side of a public road, being the NEC of a tract of land conveyed by C. A. Golden to G. H. Stephens by deed dated October 5, 1929, recorded in Vol. 143, Page 336, and being an angle corner of a tract of land conveyed by H. P. Beckham, et al, to E. E. Lawson by deed dated February 13, 1931, recorded in Vol. 274, Page 41, all references made to the said Deed Records, Shelby County, Texas;

THENCE N. 77 deg. 04 min. 00 sec. E. crossing the said road, and with a fence line along the said E. E. Lawson line a distance of 267.76 ft. to a 1/2 inch iron rod set for the corner, being the most northerly NWC of an 11.7198 acre tract this day survey out of the said referenced tracts;

THENCE six (6) calls with the said 11.7198 acre tract, and along a fence lien as follows:

- (1) S. 16 deg. 27 min. 19 sec. E. 110.46 ft.;
- (2) S. 74 deg. 52 min. 08 sec. W. 46.39 ft.;
- (3) S. 22 deg. 33 min. 16 sec. E. 99.88 ft.;
- (4) S. 66 deg. 33 min. 04 sec. W. 77.33 ft.;
- (5) N. 38 deg. 05 min. 03 sec. W. 122.25 ft.;
- (6) S. 74 deg. 59 min. 50 sec. W. 98.37 ft. to a 1/2 inch iron rod set for the corner in the East line

of the aforementioned G. H. Stephens tract;

THENCE N. 22 deg. 00 min. 44 sec. W. along the said Stephen's line a distance of 118.98 ft. to the Point of Beginning and containing 0.9156 acre of land, more or less.