

17-00294C

**NOTICE OF ACCELERATION AND NOTICE OF FORECLOSURE SALE BY SUBSTITUTE TRUSTEE**

FILED FOR RECORD  
SHELBY COUNTY, TEXAS  
2017 NOV 30 AM 11 12  
JENNIFER L. FORTMAN  
COUNTY CLERK

**Date:** November 30, 2017

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

**Lender:** Texas State Bank, P O Box 1069, Joaquin, Shelby County, Texas 75954

**Note:**

Date:	January 6, 2000
Original principal amount:	\$58,033.62
Borrower:	Walter M. Cassell and wife, Linda Lea Cassell
Lender:	Texas State Bank
TSB Mortgage Loan Number:	175756
Original Maturity date:	January 6, 2015
Modified Maturity date:	June 9, 2023

Amount owing on Note: As of November 30, 2017, the sum of \$36,402.17 is due and owing under the Note for the balance of the unpaid principal, accrued interest, late charges secured for repayment by the below described Deed of Trust. Also, interest shall accrue daily after November 30, 2017, in the amount of \$6.98 on the unpaid principal balance.

**Notice of Acceleration:** Lender is the holder of the Note, and Lender has on November 30, 2017, accelerated the unpaid principal balance of the Note 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 October 10, 2017, of the defaults under the Note, and further gave Borrower the opportunity to cure said defaults for a period of time through 5:00 o'clock p.m. on Friday, November 10, 2017, 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.

**Deed of Trust:** One certain Deed of Trust ("Deed of Trust") dated January 6, 2000, made by Walter M. Cassell and wife, Linda Lea Cassell (collectively the "Grantor" or "Borrower"), conveying unto Trustee, Walter Rainbolt, Jr. as Trustee, for the benefit of Lender, Texas State Bank, certain real property & improvements thereon (the "Property") described in the said Deed of Trust which was filed of record on January 7, 2000, with the Office of the County Clerk of Shelby County, Texas under Clerk's Instrument Number 2000 121 and thereafter placed of record in Book 873 at Page 878, et seq., in the Official Public Records of Shelby County, Texas, and which Deed of Trust and Note was modified by a Modification, Extension and Renewal Agreement (the "Modification") by Borrower and Lender dated June 9, 2003, which Modification was filed of record on July 3, 2003, with the Office of the County Clerk of Shelby County, Texas under Clerk's Instrument Number 2003-3015 and thereafter placed of record in Book 965 at Page 791, et seq., in the Official Public Records of Shelby County, Texas, reference to which Deed of Trust and Modification is hereby made for any and all purposes, including incorporation and identification herein by reference thereto.

**Property (and improvements situated thereon):** BEING 13 acres of land, more or less, out of the JOHN FORSYTHE SURVEY, ABSTRACT NO. 203, and the H. MCKELVEY SURVEY, ABSTRACT No. 464, in Shelby County, Texas, and being more particularly described in Exhibit "A" which is attached hereto, incorporated herein by reference, and made a part here of for any and all purposes, the same as if copied herein verbatim; **SAVE AND EXCEPT** for 3 acres of land, more or less, heretofore partially released by the Lender and which 3 acres being more particularly described in Exhibit "B" which is attached hereto, incorporated herein by reference, and made a part here of for any and all purposes, the same as if copied herein verbatim.

**County:** Shelby County, Texas

**Date of Sale:** Tuesday, January 2, 2018

*November 30, 2017 Notice of Acceleration and Notice of Foreclosure Sale by Substitute Trustee*  
*Mortgagor: Walter M. Cassell and wife, Linda Lea Cassell*  
*Mortgagee: Texas State Bank*

**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 Walter M. Cassell and wife, Linda Lea Cassell.

**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 \$58,033.62 executed by Borrower and payable to the order of Texas State Bank, Joaquin, Texas (herein called "Beneficiary" or "Lender") owing by Walter M. Cassell and wife, Linda Lea Cassell to Texas State Bank. Texas State Bank (the "Lender" or "Beneficiary") is the current owner and holder of the Note and is the beneficiary under the Deed of Trust. **As of November 30, 2017, there is owed to Lender the total sum in the amount of \$36,402.17 secured by the Deed of Trust on account of the unpaid principal balance, accrued interest, and late charges owing by Borrower under the Note to the Lender, Texas State Bank.**

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

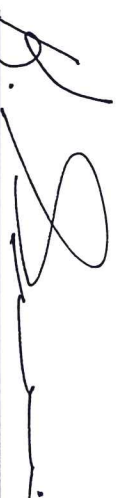
Texas State Bank  
Attn: Paul A. Clark, General Counsel  
304 US Hwy 69 South – P O Box 1139  
Huntington, Texas 75949-1139  
Voice: (936) 422-3315 ext. 1027 Cell: (936) 414-9564 Fax (936) 422-3271  
E-mail: [pclark@texasstatebank.net](mailto:pclark@texasstatebank.net)

**Default and Request to Act:** Default has occurred under the Note secured by the Deed of Trust, and Texas State Bank, as the beneficiary under the Deed of Trust, 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.

**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 30<sup>th</sup> day of November, 2017.



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

**EXHIBIT "A"**

All that certain tract of land situated in SHELBY COUNTY, TEXAS, on the JOHN FORSYTHE SURVEY, A-203, and the H. MCKELVEY SURVEY, A-464, about 4 miles North 15 East from the county site in Center, Texas, being a portion of the tract of land described in the Deed from O. H. May, et ux., to Rosa Lee Boles, recorded in Volume 167, page 325, Deed Records, Shelby County, Texas, and being described by metes and bounds as follows, to-wit:

BEGINNING at an 1/2 inch iron rod set in the East right-of-way line of Farm Road 699;

THENCE North 61 deg. 14 min. 33 sec. East, departing the said right-of-way and into the above mentioned tract of land, a distance of 535.21 feet to an 1/2 inch iron rod set on the corner in a fence line;

THENCE South 78 deg. 27 min. 49 sec. East, with the said fence line, a distance of 122.63 feet to an 1/2 inch iron rod set in a fence corner;

THENCE North 56 deg. 24 min. 50 sec. East, continuing with the said fence line, at 117.54 feet passing a fence corner, and, continuing on the same course, in all, a distance of 467.49 feet, to an 1/2 inch iron rod set on the corner;

THENCE South 06 deg. 55 min. 34 sec. East, a distance of 699.85 feet to an 1/2 inch iron rod set on the corner in the South line of the above mentioned tract of land, being a North line of the R. C. Adams 41.25 acre tract described in Volume 198, page 363, Deed Records, Shelby County, Texas;

THENCE South 78 deg. 50 min. 55 sec. West, with the said line, a distance of 975.91 feet to a 3/8 inch iron rod set in a fence corner;

THENCE North 26 deg. 09 min. 43 sec. West, a distance of 52.40 feet to a 3/8 inch iron rod set in a fence corner and in the approximate line of the said Forsythe Survey and the said McKelvey Survey;

THENCE North 84 deg. 23 min. 52 sec. West, a distance of 102.23 feet to an 1/2 inch iron rod set on the corner in the East right-of-way line of the said Farm Road 699;

THENCE with the right-of-way of said Farm Road, 50 feet from the centerline, along a curve to the left having a radius of 1,959.86 feet and an arc length of 335.86 feet, being subtended by a chord of North 03 deg. 16 min. 13 sec. East, for a distance of 335.45 feet to the Place of Beginning, containing 13 acres of land as surveyed on June 13, 1996 by Burl W. Youngblood, Registered Professional Land Surveyor No. 1476;

**SUBJECT TO the following perpetual non-exclusive easement, to-wit:**

**A perpetual non-exclusive access twenty (20) foot easement adjacent to, parallel with, and ten (10) feet each side of the following described centerline:**

**BEGINNING** at a point for corner on the west boundary line of the above described tract, said beginning corner being S06°55'38"E, 10.54 feet from a 1/2" iron rod found for the northwest corner of the above described tract and a interior corner of the 13 acre tract;

**THENCE** 10.00 feet perpendicularly from, parallel with, and south of the north boundary line of the 13 acre tract as follows:

N78°32'43"W, 122.64 feet;

S61°16'42"W, 536.60 feet to a point for corner on the east right of way of FM 699

from which a 1/2' iron rod found for the northwest corner of the 13 acre tract bears  
N01°33'40"W, 11.24 feet.

EXHIBIT "B"

(description of 3 acres partially released out of the 13 acres described in Exhibit "A")

All that certain tract or parcel of land lying and being situated about 4 miles northeast of the City of Center, Shelby County, Texas on the JOHN FORSYTHE SURVEY, A-203, being part of a 13 acre tract described in a conveyance from B. B. Boles and wife, Mary E. Boles to Walter M. Cassell, dated July 10, 1996, recorded in Vol. 805, Pg. 900 of the Deed Records of Shelby County, Texas and more particularly described as follows:

BEGINNING at a ½" iron rod found for corner in a field, said beginning corner being the northeast corner of the 13 acre tract;

THENCE S06°55'38"E, 417.70 feet with the east boundary line of the 13 acre tract to a ½" iron rod set for corner;

THENCE S83°04'22"W, 417.70 feet to a ½" iron rod set for corner;

THENCE N06°55'38"W, 208.00 feet to a ½" iron rod found for corner on the north boundary line of the 13 acre tract, said corner being a interior corner of the 13 acre tract;

THENCE N56°24'50"E(REF), 467.38 feet with the north boundary line of the 13 acre tract to the place of BEGINNING, containing 3.00 acres.