

NO. _____ TIME 4:00 pm

MAR 11 2022

DONECE GREGORY, COUNTY CLERK
TYLER COUNTY, TEXAS
By James Brown

Notice of Foreclosure Sale

March 11, 2022

Deed of Trust ("Deed of Trust"):

Dated: September 8, 2020
Grantor: Danny Ray Phelps and Frances Rene Phelps
Trustee: Thomas D. Fortenberry
Original Lender: Empyre Intl LLC
Current Lender: Cypress Lake Enterprises, LLC
Recorded in: Volume 1246, Page 967, et seq., of the real property records of Tyler County, Texas, and transferred to the Current Lender by virtue of that Transfer of Lien dated February 17, 2022

Legal Description: Being 1.018 acres of land, more or less, and situated in Josiah Wheat Survey, Abstract 657, Tyler County, Texas, and being all of Tract 1 (called 1.08 acre) and all of Tract 2 (acreage not recited) conveyed to Mrs. Nell Handley Matt by deed recorded in Volume 125, Page 555, Tyler County Deed Records. The said 1.018 acre tract also being the called 1.017 acre tract conveyed to Lloyd C. Fortenberry and Gil Tubb by deed recorded in Volume 796, Page 802, Official Public Records, Tyler County, Texas. Said 1.018 acres of land, more or less, being more particularly described by metes and bounds in that certain Deed of Trust, Security Agreement, and Financing Statement dated September 8, 2020 from Danny Ray Phelps and Frances Rene Phelps to Thomas D. Fortenberry, Trustee, to secure the indebtedness and performance in favor of Empyre INTL LLC, all as therein provided, filed for record on September 14, 2020 in Volume 1246, Page 967, et seq., Official Public Records of Tyler County, Texas.

Secures: Note dated September 8, 2020 ("Note") in the original principal amount of \$109,305.00, executed by Danny Ray Phelps and Frances Rene Phelps ("Borrower") and payable to the order of Original Lender, and transferred to the Current Lender by virtue of that Allonge dated February 17, 2022.

Foreclosure Sale:

Date: Tuesday, April 5, 2022
Time: The sale of the Property will be held between the hours of 10:00 A.M. and 4:00 P.M. local time; the earliest time at which the Foreclosure Sale will begin is 10:00 A.M. and not later than three hours thereafter.

Place: In the area designated by the Tyler County Commissioners Court pursuant to Section 51.002 of the Texas Property Code as the place where the foreclosure sales are to take place, or if no place is

designated by the Commissioners Court, the place where the Notice of Trustee's Sale was posted.

Terms of Sale: The Foreclosure Sale will be conducted as a public auction and the Property will be sold to the highest bidder for cash, except that Current Lender's bid may be by credit against the indebtedness secured by the lien of the Deed of Trust.

Default has occurred in the payment of the Note and in the performance of the obligations of the Deed of Trust. Because of that default, Current Lender, the owner and holder of the Note, has requested Substitute Trustee to sell the Property.

The Deed of Trust may encumber both real and personal property. Formal notice is hereby given of Current Lender's election to proceed against and sell both the real property and any personal property described in the Deed of Trust in accordance with Current Lender's rights and remedies under the Deed of Trust and section 9.604(a) of the Texas Business and Commerce Code.

Therefore, notice is given that on and at the Date, Time, and Place for the Foreclosure Sale described above, Substitute Trustee will sell the Property in accordance with the Terms of Sale described above, the Deed of Trust, and applicable Texas law.

If Current Lender passes the Foreclosure Sale, 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.

The Foreclosure 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 Foreclosure 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 by Current Lender. 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 51.009 of the Texas Property Code, the Property will be sold "AS IS," without any expressed or implied warranties, except as to the warranties (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.

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.

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.

THIS INSTRUMENT APPOINTS THE TRUSTEE(S) OR SUBSTITUTE TRUSTEE(S) IDENTIFIED TO SELL THE PROPERTY DESCRIBED IN THE SECURITY INSTRUMENT IDENTIFIED IN THIS NOTICE OF SALE. THE PERSON SIGNING THIS NOTICE IS THE ATTORNEY OR AUTHORIZED AGENT OF THE MORTGAGEE OR MORTGAGE SERVICER.



THOMAS D. FORTENBERRY

State Bar No. 24050617

318 West Dogwood

Woodville, Texas 75979

P.O. Box 1567

Cedar Park, Texas 78630

Telephone (409) 283-2811

Telecopier (409) 291-7042

Email: tom@tflawoffices.com

ATTORNEY AT LAW