



**NOTICE OF SUBSTITUTE TRUSTEE'S SALE**

**THE STATE OF TEXAS**  
**COUNTY OF WALLER**

§  
§  
§

**KNOW ALL MEN BY THESE PRESENTS:**

**WHEREAS**, on September 14, 2007, **Dr. John Boren** ("Grantor") executed and delivered a Deed of Trust and Security Agreement (the "Deed of Trust") conveying to **David Zahman**, as Trustee, the hereinbelow described property to secure **Prosperity Bank** in the payment of an indebtedness (the "Note") therein described, the Deed of Trust being filed and recorded under Clerk's File No. 708541, Volume 1068, Page 527, et. seq., in the Official Public Records of Real Property of Waller County, Texas, to which reference is hereby made for all purposes; and

**WHEREAS**, said Note and lien were last modified by that one certain Modification Agreement dated effective March 14, 2009, which is recorded under Clerk's File No. 902374, Volume 1158, Page 658, et. seq., in the Official Public Records of Real Property of Waller County, Texas (the "Modification Agreement"); and

**WHEREAS**, default has occurred in the payment of the Note, as modified, and the same is now wholly due, and **Prosperity Bank** (the "Beneficiary"), the owner and holder of the Note, has requested the undersigned to sell the Property to satisfy the Note; and

**WHEREAS**, the above named Trustee and any previously appointed Substitute Trustee was removed under and in accordance with the Deed of Trust and the Beneficiary designated and appointed **L. David Smith** as Substitute Trustee to enforce the Trust.

**NOW, THEREFORE**, pursuant to the authority conferred upon me by the Deed of Trust, I hereby give notice that I will sell the Property at public auction to the highest bidder, for cash, on

**Tuesday, September 1, 2015.** The earliest time at which the sale will occur shall be at 1:00 o'clock P.M. and it may take place not later than three hours after said time, and the sale shall take place in the area at the Waller County Courthouse which has been designated as the area for foreclosures to take place, being the foyer at the South entrance of the Waller County Courthouse, 836 Austin Street, Hempstead, Texas 77445, which designated area is more particularly described in the Waller County Commissioner's Court Designation, recorded in Volume 413, Page 148, in the Deed Records of Waller County, Texas, or any other area which has been designated by the Waller County Commissioner's Court as the area for foreclosures to take place. This conveyance will be made subject to any exceptions referenced in the Deed of Trust to the extent the same are still in effect and shall not cover any part of the Property that has been released from the liens of the Deed of Trust. The Property that will be sold at the foreclosure sale includes the following described real property, together with all improvements and fixtures thereon and appurtenances thereto:

**Tract 1:**

Being 1.0000 acre out of a called 21.00 acre tract of land in Waller County, Texas, Abstract No. 153, said 1.0000 acre being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof.

**Tract 2:**

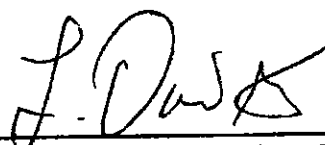
Easement Estate being 2.5263 acres of land out of a called 21.00 acre tract of land described in Volume 726, Page 197 of the Deed Records of Waller County, Texas, located in the H. & T. R.R. Company Survey, Section 71, Block 1, Abstract No. 153, Waller County, Texas, said 2.5263 acres being more particularly described by metes and bounds on Exhibit "B" attached hereto and made a part hereof.

THE SALE OF THE PROPERTY IS "AS-IS" AND "WHERE-IS" AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY THE SUBSTITUTE TRUSTEE, EXPRESS, IMPLIED, STATUTORY, QUASI-STATUTORY OR OTHERWISE, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE BEING EXPRESSLY DISCLAIMED. THE SUBSTITUTE TRUSTEE MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE COMPLIANCE WITH THE LAWS, RULES, AGREEMENTS OR SPECIFICATIONS, CONDITION, QUALITY,

CAPACITY, DESIGN, OPERATION, ABSENCE OF ANY LATENT DEFECTS OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER WITH RESPECT TO THE PROPERTY, ALL OF WHICH ARE EXPRESSLY WAIVED BY PURCHASER.

**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 this 5<sup>th</sup> day of August, 2015.

 Substitute Trustee

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L. David Smith, Substitute Trustee  
Chernosky, Smith, Ressler & Smith, PLLC  
4646 Wild Indigo, Suite 110  
Houston, Texas 77027  
Telephone: (713) 800-8604  
Facsimile: (713) 622-1026  
Email: smith@csrslaw.com



EXHIBIT "A"

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**SUBJECT PARCEL**

**NOTE: BEARINGS ASSUMED.**

**BEING 1,000 ACRES OUT OF A CALLED 21.00 ACRE TRACT OF LAND IN WALLER COUNTY, TEXAS, ABSTRACT NO. 183, SAID 1,000 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING at a point on the Northeast corner of said called 21.00 acre tract, being the Northwest corner of that certain called 9,970 acre tract recorded in Volume 884, Page 284 of the Official Records of Waller County, Texas;**

**THENCE South 00° 04' 48" West, along the common line of said called 21.00 acre tract and said called R.870 acre tract, a distance of 60.00 feet to a point for corner in the South line of Market Road (called 20 feet wide), survey found a 5/8 inch iron rod capped Kalkbrenner, survey found a 5/8 inch iron rod capped Kalkbrenner bearing North 89° 58' 57" East a distance of 282.12 feet, survey found a 5/8 inch iron rod capped Kalkbrenner bearing South 00° 04' 48" West a distance of 1288.80 feet;**

**THENCE South 00° 04' 48" West, continuing along said common line, a distance of 688.84 feet to a set 1/2 inch iron rod capped No. 4888 and the POINT OF BEGINNING of the herein described tract;**

**THENCE South 80° 04' 48" West, continuing along said common line, a distance of 222.42 feet to a set 1/2 inch iron rod capped No. 4888 for the Southeast corner of the herein described tract;**

**THENCE South 80° 04' 48" West, across said called 21.00 acres, a distance of 188.87 feet to a set 1/2 inch iron rod capped no. 4888 for corner being the Southwest corner of the herein described tract;**

**THENCE North 80° 04' 48" West, continuing across said called 21.00 acres, a distance of 222.42 feet to a set 1/2 inch iron rod capped no. 4888 being the Northwest corner of the herein described tract;**

**THENCE North 80° 04' 48" East, continuing across said called 21.00 acres a distance of 188.87 feet to the POINT OF BEGINNING of the herein described tract and containing 1,000 acres or 43,560 square feet of land more or less.**

**RECORDING'S MEMORANDUM  
All or parts of the text on this page  
was not clearly legible for  
automatic recording.**

DATED the 11<sup>th</sup> day of August, 2004

  
**DENVER KARL BOWLES,**  
FPL# No. 4888  
Updated 8/15/04 for type  
Revised 10/17/08 per client request



RECORDED MEMORANDUM  
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recovery recording.

NOTE: BEARINGS ASSUMED.

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BEING 2.5283 ACRES OF LAND OUT OF A CALLED 21.00 ACRE TRACT OF LAND DESCRIBED IN VOLUME 738, PAGE 187 OF THE DEED RECORDS OF WALLER COUNTY, TEXAS, LOCATED IN THE H.A.T.C.R.R. COMPANY SURVEY, SECTION 71, BLOCK 1, ABSTRACT NO. 193 WALLER COUNTY, TEXAS, SAID 2.5283 ACRES BEING MORE PARTICULARLY DESCRIBED BY WRITER AND BOUNDS AS FOLLOWS:

COMMENCING at the Northwest corner of said called 21.00 acre tract of land, said point lying in Morton Road (50 feet wide);

THENCE South  $00^{\circ} 04' 43''$  West, along the easterly line of said called 21.00 acres, a distance of 80.00 feet the POINT OF BEGINNING of the herein described tract, survey found a  $5/8$  inch iron rod capped Kalkorway, survey found a  $5/8$  inch iron rod capped Kalkorway bearing North  $89^{\circ} 08' 37''$  East a distance of 322.12 feet, survey found a  $5/8$  inch iron rod capped Kalkorway bearing South  $00^{\circ} 04' 43''$  West a distance of 1286.80 feet;

THENCE South  $00^{\circ} 04' 43''$  West, continuing along said easterly line, a distance of 259.88 feet to a point for corner;

THENCE South  $46^{\circ} 27' 55''$  West, departing said easterly line, and across said called 21.00 acres, a distance of 282.24 feet to a point for corner;

THENCE South  $00^{\circ} 04' 43''$  West, continuing across said called 21.00 acres, a distance of 480.50 feet to a point for curve to the Right;

THENCE along said curve to the Right and continuing across said called 21.00 acres, said curve to the Right having a Radius of 280.00 feet, an Arc distance of 243.00 feet, a Central Angle of  $53^{\circ} 23' 02''$  and a Chord bearing South  $20^{\circ} 57' 14''$  West a distance of 234.28 feet, to a point for compound curve to the Right;

THENCE along said curve to the Right and continuing across said called 21.00 acres, said curve to the Right having a Radius of 70.00 feet, an Arc distance of 283.33 feet, a Central Angle of  $240^{\circ} 08' 30''$  and a Chord bearing North  $06^{\circ} 19' 47''$  West a distance of 121.19 feet to a point for reverse curve to the Left;

THENCE along said curve to the Left and continuing across said called 21.00 acres, said curve to the Left having a Radius of 38.00 feet, an Arc distance of 87.15 feet, a Central Angle of  $83^{\circ} 33' 34''$  and a Chord bearing North  $88^{\circ} 08' 03''$  East a distance of 51.01 feet to a point for compound curve to the Left;

THENCE along said curve to the Left and continuing across said called 21.00 acres, said curve to the Left having a Radius of 200.00 feet, an Arc distance of 70.00 feet, a Central Angle of  $20^{\circ} 04' 33''$  and a Chord bearing North  $10^{\circ} 08' 00''$  East a distance of 68.72 feet to a point of tangent;

326.705

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THENCE North 00° 04' 43" East, continuing across said called 21.00 acres, a distance of 321.86 feet to a point for curve the Left;

THENCE along said curve to the Left and continuing across said called 21.00 acres, said curve to the Left having a Radius of 38.00 feet, an Arc distance of 81.81 feet, a Central Angle of 133° 58' 31" and a Chord bearing North 80° 43' 02" West a distance of 84.34 feet to a point of tangency;

THENCE South 45° 27' 58" West, continuing across said called 21.00 acres, a distance of 91.14 feet to a point for curve the Right;

THENCE along said curve to the Right and continuing across said called 21.00 acres, said curve to the Right having a Radius of 70.00 feet, an Arc distance of 213.04 feet, a Central Angle of 220° 13' 33" and a Chord bearing North 08° 28' 18" West a distance of 110.16 feet to a point of reverse Curve to the Left;

THENCE along said curve the Left and continuing across said called 21.00 acres, said curve to the Left having a Radius of 38.00 feet, an Arc distance of 48.58 feet, a Central Angle of 78° 12' 33" and a Chord bearing North 54° 34' 48" East a distance of 43.20 feet to a point of tangency;


THENCE North 45° 27' 58" East, continuing across said called 21.00 acres, a distance of 390.24 feet to point for corner;

THENCE North 00° 04' 43" East, continuing across said called 21.00 acres, a distance of 233.86 feet to a point for corner on the Southern line of said Morton Road (80 feet wide);

THENCE North 86° 30' 37" East, along said Boldbody line, a distance of 80.00 feet to the POINT OF BEGINNING and containing 2.5283 acres or 110,047 square feet of land, more or less.

RECORDERS ATTENTION: All of pages of the text on this page was not clearly legible by electronic recording.

DATED this 4<sup>th</sup> day of September, 2007 .

  
EDWARD KARL DOWLES,  
RPLS No. 4888



07900431-44-0H  
AFTER RECORDING, RETURN TO:  
Stewart Title - Katy  
3402 Thorndike Terrace, Ste. A  
Katy, Texas 77494

## FILED AND RECORDED

**Instrument Number: 15-058**

Filing and Recording Date: 08/10/2015 11:25:01 AM Pages: 7 Recording Fee: \$5.00

I hereby certify that this instrument was FILED on the date and time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS of Waller County,



*Debbie Hollan*

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Debbie Hollan, County Clerk  
Waller County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

Stephanie Tompkins, Deputy

Returned To: