

7987

**CONSTABLE PRECINCT 2 JEFF MCCOY
P.O.BOX 431 NEWTON , TEXAS 75966
409-336-7137**

POSTED

AUG 12 2022

TIME 2:20 P
BY: *Sandra K. Duckworth*
SANDRA K. DUCKWORTH, COUNTY CLERK

Notice of Levy of Real Property

Under and by virtue of order of sale on June 27, 2022, pursuant to the Judgement rendered on February 17, 2022 by the 1st Judicial District Court in Newton County, Texas, in cause number CV21-14853 styled Propel Financial Services, as agent and attorney in fact for FNA 2019-1, LLC vs. Rokeshia Nicole Elam and Chester Elam, et al, on June 27, 2022, I levied, against all legal interest and/or right of all defendants subject to said Judgement, upon the following described tracts or parcels of land:

Lot seven(7),Block six(6),Kerr Addition No.2 an addition to the city of Newton, Newton County, Texas 75966

Street address: 714 College Street, Newton, Texas 75966

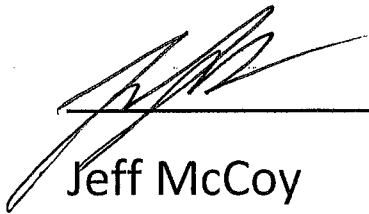
Tax account number(s): 23336

For further description of property see attached : Notice of Foreclosure Sale and Order of Sale.

Defendants sum for the foreclosure of Plaintiff's Lien as of August 12th 2022 is \$26,939.18, subject to possible additional fees.

And that property be sold under Order of Sale in satisfaction with the judgement

I hereby Levy on the described property listed in the Order of Sale.



8-12-22

Constable Precinct 2 Newton County, Newton, Texas

Print name

Signature

CAUSE NO. CV21-14853

PROPEL FINANCIAL SERVICES, AS	§	IN THE DISTRICT COURT
AGENT AND ATTORNEY IN FACT FOR	§	
FNA 2019-1, LLC	§	
<i>Plaintiff(s),</i>	§	
	§	
VS.	§	1ST JUDICIAL DISTRICT
	§	
ROKESHIA NICOLE ELAM AND	§	
CHESTER ELAM, ET AL	§	
<i>Defendant(s).</i>	§	NEWTON COUNTY, TEXAS

ORDER OF SALE

To the Officer charged with conducting tax delinquency foreclosures sales in Newton County:

WHEREAS the above reference Court in the above referenced cause rendered judgment on February 17, 2022.

WHEREAS the parties subject to said Judgment, and corresponding contact information, are:

- i) Rokeshia Nicole Elam, Defendant, 714 College Street, Newton, TX 75966 and 113 Court Street, Newton, TX 75966;
- ii) Chester Elam, Defendant, 714 College Street, Newton, TX 75966 and 113 Court Street, Newton, TX 75966;
- iii) The State of Texas, Defendant (in rem only), c/o Ken Paxton, Attorney General at 300 W. 15th Street, Austin, TX 78701;
- iv) Newton County, et al, Intervenor(s), c/o McCreary, Veselka, Bragg & Allen, P.C., Attn. Attorney Keith Treadway, P.O. Bryan 552, Bryan, Texas 77806; and
- v) Propel Financial Services, as Agent and Attorney in Fact for FNA 2019-1, LLC, Plaintiff, c/o Bellamy, Schultz & Rusler, PLLC, Attn: Attorney Dylan Schultz, 7200 North MoPac Expy., Suite 310, Austin, TX 78731.

WHEREAS said judgment orders recovery from the Defendant(s); apportioned against various tracts, lots, and/or lands, including improvements, more particularly described below; and directs foreclosure of the subject lien(s) created and established thereon as follows:

DESCRIPTION OF SUBJECT PROPERTY:

LEGAL DESCRIPTION: LOT SEVEN (7), BLOCK SIX (6), KERR ADDITION NO. 2, AN ADDITION TO THE CITY OF NEWTON, NEWTON COUNTY, TEXAS;

STREET ADDRESS: 714 College Street, Newton, TX 75966; and

TAX ACCOUNT NUMBER(S): 23336.

ADJUDGED VALUE: \$87,187.00

APPORTIONMENT OF JUDGMENT RENDERED:

FNA 2019-1, LLC for tax years 2017-2019:	\$23,506.70
Newton ISD for tax years 2020-2021:	\$1,693.87
<u>Newton Co.:</u>	<u>\$1,258.61</u>
Total:	\$26,459.18

WHEREAS said judgment renders the Defendant responsible for the further sum of \$ 480.00, for costs of suit as manifest from the itemized Bill of Costs hereto attached, together with a foreclosure of the tax lien on the hereinafter described property.

WHEREAS the amount apportioned against said tract(s) in the aforesaid judgment shall be adjusted by all just and lawful credits; costs of court; post judgment accrual of penalty, taxes or principal amount, interest and/or attorney fees provided for in the Note, in the Judgment, and by or Tex. Prop. Tax Code Sec. 33.01, 33.07, and 33.08; and, costs of sale, to include, but not limited to, 1) Sheriff or Constables fees and/or commission, 2) advertising and publication fees for notices, 3) filing fees, 4) recording fees, 5) postage fees, and 6) attorney's fees for post judgment work performed by the Plaintiff(s) and/or Intervenor(s) attorney(s) in furtherance of foreclosure sale, including, but not limited to, a) correspondence with clerks, sheriffs, parties to the suit, newspapers, bidders, purchasers, trustees, sub-trustees, etc., b) document preparation (deeds, notices of foreclosure sale, letters, bid sheets, petitions for proceeds, attachments, exhibits, settlement agreements, etc.), and c) appearances at hearings, sales or other events related to foreclosure of the property of collection of any amounts due. Said costs of Sale are collectable per Tex. Prop. Tax Code Sec. 34.01(b). Should the Plaintiff(s) or Intervenor(s) attorney(s) choose to prepay any fee, cost, expense or amount referenced anywhere herein, said attorney shall be reimbursed, therefore.

THEREFORE, the Sheriff or Constable is hereby commanded to seize, levy upon, and advertise for sale as under execution the hereinabove described land, lots and tracts of land, including any improvements thereto, for the amount apportioned to each tract, and sell within the hours prescribed by law the said property to the highest bidder for cash, as under execution in cases of foreclosure, but if the defendant(s) or his/her attorney shall at any time before the sale file with Sheriff or other officer into whose hands this Order of Sale is placed a written request that any tract described therein shall be divided and sold in less tracts than the whole, together with a description of said subdivisions, then the Sheriff or Constable is commanded to sell the lands in such subdivisions as the defendant(s) may request, and in such case you shall only sell as many subdivisions, as near as may be, to satisfy this judgment, interest, penalty, and costs apportioned to such tract.

The Sheriff or Constable shall start the bidding at the minimum bid amount and shall only sell the property for the minimum bid amount or above. The minimum bid is the lesser of either the amount calculated under Tex. Prop. Tax Code Sec. 34.01(b) or the adjudged value of the subject property or properties in the aggregate if there is more than one subject property. Tex. Prop. Tax Code Sec. 34.01(j).

The components of the calculated amount under Tex. Prop. Tax Code Sec. 34.01(b) are "the total amount due under the judgment, including all taxes, penalties, and interest, plus other amount awarded by the judgment, court costs, and the costs of sale [, ...] costs of advertising, and deed recording fees [, ... and] the amount of the taxes included in the judgment that remain due [the Plaintiff(s) or Intervenor(s)] and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale." Tex. Prop. Tax Code Sec. 34.01(b). Sheriff's fees and commissions are considered costs of advertising and court costs. The term "taxes" includes a charge, fee, or expense that is expressly authorized by Section 32.06 or 32.065 [of the Tex. Prop. Tax Code]." Tex. Prop. Tax Code Sec. 34.02(e).

In the event that no bid is equal to or greater than the minimum bid, the Plaintiff or Intervenor who requested the Order of Sale may terminate the sale. Tex. Prop. Tax Code Sec. 34.01(j). If said party

does not terminate the sale, the Sheriff or Constable shall bid the property off to the party that requested the Order of Sale for the minimum bid, or a lesser amount agreed to by all Plaintiff(s) and Intervenor(s). *Id.* Any Plaintiff or Intervenor to this judgment in this suit may bid in and hold the title to said property for the use and benefit of itself and all other taxing units which were parties to this suit and which have been adjudged in this suit to have a valid tax lien against said property.

“The duty of the officer conducting the sale to bid off the property [... per Tex. Prop. Tax Code Sec. 34.01(j)] is self-executing. The actual attendance of a representative of [the Plaintiff(s) and/or Intervenor(s)] at the sale is not a prerequisite to that duty.” *Id.*

“The property may not be sold to a person owning an interest in the property or to a person who is a party to the suit other than a taxing unit unless (1) that person is the highest bidder at the tax sale; and (2) the amount bid by that person is equal to or greater than the aggregate amount of the judgments against the property, including all costs of the suit and sale.” Tex. Prop. Tax Code Sec. 33.50(c).

The officer conducting the sale shall distribute proceeds in the following order. First, he or she shall “pay amounts due all participants in the sale as specified by [Tex. Prop. Tax Code Sec. 34.01(b), listed above].” Tex. Prop. Tax Code Secs. 34.02(d). Second, if there are excess proceeds after such payments to such participants, the officer shall pay them “to the clerk of the court issuing the warrant or order of sale.” *Id.*

The Plaintiff(s) or Intervenor(s) who requested the Order of Sale may elect to prepare the Sheriff or Constable Deed, although, in the absence of such election, the Sheriff or Constable shall prepare said deed. Tex. Prop. Tax Code Sec. 34.01(m).

The Sheriff or Constable shall execute the deed conveying title to said property when sold and paid for, and the purchaser shall take title free and clear of all liens and claims for ad valorem taxes against said property delinquent at the time of judgment in said suit to any taxing unit which was a party to said suit, or which had been served with a citation or notice in said suit as required by law. By the term 'all liens and claims for ad valorem taxes' shall never be construed to include assessments for maintenance and operation purposes on a pro rata per acre basis against irrigable lands authorized by law to be made by water, improvement districts or water control and improvement districts.

It was further ordered by the Court in the Judgment that the clerk of this Court shall issue a writ of possession no sooner than twenty (20) days following the date on which the purchaser's deed is filed of record, to the purchaser at foreclosure sale or his assigns.

It was further ordered by the Court in the Judgment that the officer executing this order of sale shall make the sale thereunder subject to the right of the owner of such property, or anyone having an interest therein, or their heirs, assigns or legal representatives who have the right to redeem said property so sold within the time prescribed by law in such cases and on the basis fixed by law, and said officer shall make proper conveyance to the purchaser or purchasers of said property under and by virtue to convey upon compliance with the terms of sale.

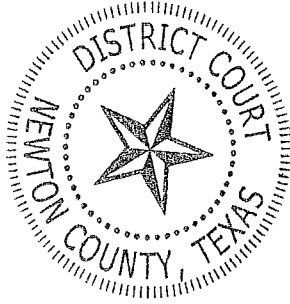
HEREIN FAIL NOT under penalty of the law, and due return make of this writ within 180 days from the date hereof, with your endorsement thereon showing how you have executed same.

WITNESS, Bree Allen, Newton County, Texas District Clerk.

Given under my hand and seal of said Court affixed at my office in Newton County, Texas, this
27 day of June, A.D. 20__.

Bree Allen, Newton County, Texas District Clerk

By: *Rikki Windham*
Deputy



FILED FOR RECORD
NEWTON COUNTY, TEXAS

2022 FEB 17 A 8:24

CAUSE NO. CV21-14853

PROPEL FINANCIAL SERVICES, AS
AGENT AND ATTORNEY IN FACT FOR
FNA 2019-1, LLC
Plaintiff(s),

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

BREE ALLEN
DISTRICT CLERK
B. Allen

VS.

1ST JUDICIAL DISTRICT

ROKESHIA NICOLE ELAM AND
CHESTER ELAM, ET AL
Defendant(s).

NEWTON COUNTY, TEXAS

FINAL JUDGMENT

On the 17th day of February, 2022, this cause being called in its regular order, came the Plaintiff(s) and Intervenor(s), whether Plaintiff(s), Intervenor(s) or Impleaded Plaintiff(s), as follows:

Plaintiff(s):

Propel Financial Services, as Agent and Attorney in Fact for FNA 2019-1, LLC

Intervenor(s):

Newton County, Newton Independent School District and City of Newton

The defendant(s) are as follows:

Rokeshia N. Elam who was duly served with citation which has been returned to this court and has been on file for more than ten (10) days, failed to appear or answer and wholly made default

Chester Elam who was duly served with citation which has been returned to this court and has been on file for more than ten (10) days, failed to appear or answer and wholly made default.

The State of Texas (In Rem Only) who was duly served with citation which has been returned to this court and has been on file for more than ten (10) days, failed to appear or answer and wholly made default.

All matters of controversy, both of fact and of law, were submitted to the Court. The Court, after considering the pleadings, evidence, and arguments of counsel, grants judgment as follows:

IT IS ORDERED that Plaintiff(s) and Intervenor(s) shall not be granted any monetary relief against any defendant identified as IN REM ONLY.

IT IS ORDERED that the Plaintiff(s) and Intervenor(s) recover of and from the Defendant(s), as indicated above, the total sums of money set out below, which claims are secured by tax liens against the

property hereinafter described as follows:

LEGAL DESCRIPTION: LOT SEVEN (7), BLOCK SIX (6), KERR ADDITION NO. 2, AN ADDITION TO THE CITY OF NEWTON, NEWTON COUNTY, TEXAS.;

STREET ADDRESS: 714 College Street, Newton, TX 75966, and

ACCOUNT NUMBER: 23336.

ADJUDGED MARKET VALUE: \$87,187.00

Tax Units	Tax Years	Delinquent Base Tax	Penalty & Interest	Filing, Service & Costs	Attorney Fees	Total
FNA 2019-1, LLC	2017-2019	\$14,576.23	\$4,466.61	\$741.31	\$3,722.55	\$23,506.70
Newton ISD	2020-2021	-	-	-	-	\$1,693.87
Newton Co.	2020-2021	-	-	-	-	\$1,258.61
Grand Total:						\$26,459.18

IT IS ORDERED, ADJUDGED, AND DECREED that the Plaintiff(s) and Intervenor(s), have and recover from the Defendant(s), as indicated above, the total sum of money due for taxes, penalties, interest, and attorney fees listed above, for which let execution issue.

IT IS ORDERED that, in addition to the above listed amounts, the Plaintiff(s) and Intervenor(s) shall recover from the Defendant(s) penalties and interest that postdate this Judgment, for which let execution issue, as follows: Interest and penalties shall continue to accrue until the above listed amounts are paid in full by the Defendant(s), or the date of the subject property is sold, whichever occurs first; 13.99%, the annual interest rate set forth in the Promissory Note owed to Plaintiff and admitted into evidence, shall apply to the Plaintiff's judgment awards herein; and interest rate and penalties set forth in the provisions of Tex. Prop. Tax Code Sec. 33.01, 33.07 and 33.08 shall apply to any taxing units that are Intervenor(s).

IT IS ORDERED that the Defendant(s) shall pay all court costs associated with this cause, for which let execution issue.

IT IS ORDERED that the Plaintiff(s) and Intervenor(s) do have and recover from the Defendant(s) all court costs that have been and will be incurred in the prosecution of this cause. All costs of court shall be paid by the Defendant(s), for which let execution issue.

IT IS ORDERED that Plaintiff(s) and Intervenor(s) shall have foreclosure of said tax lien(s) on each of said tracts of land against Defendant(s) or any person(s) claiming under said Defendant(s) by any right, title or interest acquired during the pendency of this suit. Further, said property is ORDERED SOLD in execution of this judgment, the proceeds from which to be applied to the adjudged amounts awarded herein.

IT IS ORDERED that Plaintiff(s) and Intervenor(s) who are transferees, as that term is defined in Tex. Tax Code Sec. 32.06(a)(2), have established by competent evidence that the entire debt owed to such Plaintiff(s) and Intervenor(s) is now due in full: either by notice of default and subsequent notice of acceleration of maturity of the deb or by independent maturity of the promissory note; or such Plaintiff(s) and Intervenor(s) are entitled to claim their entire debt in this judgment by the provisions of Tex. Tax Code Sec. 33.445.

IT IS ORDERED that the Plaintiff(s) and Intervenor(s), have and recover from the Defendant(s) all costs of sale under Tex. Prop. Tax Code Sec. 34.01(b) to include to include Sheriff or Constables fees and/or commission for foreclosure sale, advertising, and publication fees for notices, filing fees, recording fees, postage fees, and any other fee, cost, or expense related to the foreclosure of the subject property.

IT IS ORDERED that the Plaintiff(s) and Intervenor(s), have and recover from the Defendant(s) attorney's fees for post judgment work performed by the Plaintiff(s) and/or Intervenor(s) attorney(s) in furtherance of foreclosure sale, including, but not limited to, correspondence with clerks, sheriffs, parties to the suit, newspapers, bidders, purchasers, trustees, sub-trustees, and any other person involved in the foreclosure sale; preparation of documents, such as deeds, notices of foreclosure sale, letters, e-mails, bid sheets, petitions for proceeds, attachments, exhibits, settlement agreements, and any other document related to the foreclosure of the subject property; and appearances at hearings, sales or other events related to foreclosure of the property or collection of any amounts due hereunder.

IT IS ORDERED that the property may be sold to a taxing unit or tax lienholder that is a party to the suit or any other person, other than a person owning an interest in the property or any party to the suit that is not a taxing unit or tax lienholder, for the adjudged market value of the property stated in the judgment or the aggregate amount of the judgments against the property to include all costs of the suit and sale whichever is less.

IT IS ORDERED that the clerk of this court shall issue a writ of possession as authorized by law, to the purchaser at the foreclosure sale or his heir(s), executor(s), administrator(s) or assigns no sooner

than twenty (20) days following the date on which the purchaser's deed is filed of record, to the purchaser at foreclosure sale or his assigns.

IT IS ORDERED said tract(s) of land BE SOLD to satisfy the amounts awarded by this judgment. The clerk of this court is directed to issue an order of sale, upon the request of the Plaintiff(s) or Intervenor(s), commanding that the Sheriff or any Constable of this county seize, levy upon, advertise for sale, and sell said tracts of land to the highest bidder for cash, as under execution, pursuant to the provisions of Chapters 33 and 34 of the Texas Property Tax Code.

IT IS ORDERED that the officer executing said order of sale shall make the sale thereunder subject to the right of the owner of such property, or anyone having an interest therein, or their heirs, assigns or legal representatives who have the right to redeem said property so sold within the time prescribed by law in such cases and on the basis fixed by law, and said officer shall make proper conveyance to the purchaser or purchasers of said property under and by virtue to convey upon compliance with the terms of sale.

IT IS ORDERED that That the net proceeds of any sale of such property made hereunder to any purchaser other than a taxing unit who is a party to this suit shall be applied to satisfy the judgment and liens foreclosed herein, but any excess in the proceeds of sale over the amount of judgment, the costs of suit and sale and other expenses chargeable against the property, shall be paid into the registry of the court and disbursed therefrom as provided by law.

IT IS ORDERED that for all the above recovery, let execution issue.

IT IS ORDERED that all parties named in any pleadings filed by any party and not included in the judgment, and any property set out in previous pleadings but not included in this judgment, are hereby dismissed without prejudice to the right to refile their claims. Any other relief previously requested and not herein granted is expressly denied. This judgment finally disposes of all parties and all claims and is appealable.

Signed this the 17 day of Feb, 20 22.

JUDGE PRESIDING *Craig Mixson*

Submitted and Agreed By:

BELLAMY, SCHULTZ & RUSLER, PLLC
7200 North MoPac Expy., Suite 310
Austin, TX 78731
Ph: (512) 346-6011
Fax: (512) 346-6005

/s/ J. Lindsey Rusler
J. Lindsey Rusler
State Bar No. 24069080
Litigation@SRBSLaw.com
Attorney for FNA 2019-1, LLC

McCreary, Veselka, Bragg & Allen, P.C.
P.O. Bryan 552
Bryan, Texas 77806
Ph: (979) 775-1888
Fax: (512) 323-3205

Keith Treadway
Keith Treadway
katreadway@mvalaw.com
State Bar No. 24070759
Attorney for Intervenor(s)

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jarvis Levette on behalf of Joanna Rusler
Bar No. 24069080
Jarvis@Srbslaw.com
Envelope ID: 61777567
Status as of 2/16/2022 8:54 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Keith Treadway		katreadway@mvalaw.com	2/15/2022 4:25:58 PM	SENT

Notice of Foreclosure Sale

THE STATE OF TEXAS
COUNTY OF NEWTON

THIS NOTICE OF FORECLOSURE IS GIVEN pursuant to Tex. Tax Code Chapter 34, and Tex. R. Civ. P. 21a. by virtue of an Order of Sale issued on June 27, 2022, pursuant to the Judgment rendered on February 17, 2022 by the 1st Judicial District Court in Newton County, Texas, in Cause No. CV21-14853 styled PROPEL FINANCIAL SERVICES, AS AGENT AND ATTORNEY IN FACT FOR FNA 2019-1, LLC vs. ROKESHIA NICOLE ELAM AND CHESTER ELAM, et al, on June 27, 2022, I levied, against all legal interest and/or right of all defendants subject to said Judgment, upon the following described tracts or parcels of land:

LOT SEVEN (7), BLOCK SIX (6), KERR ADDITION NO. 2, AN
ADDITION TO THE CITY OF NEWTON, NEWTON COUNTY, TEXAS.

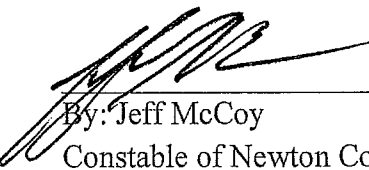
STREET ADDRESS: 714 College Street, Newton, TX 75966

TAX ACCOUNT NUMBER(S): 23336

On October 4, 2022, being the first Tuesday of said month, between the hours of 10:00 am and 4:00 pm, at the East door of the Courthouse, Newton, Texas, I will offer for sale and sell at public auction, for cash, all the right, title, and interest of all defendants subject to said Judgment, in and to said tracts or parcels of land, as provided for by the Texas Tax Code, to satisfy said Judgment for delinquent property taxes, accrued penalties, interests, and attorney's fees, totaling \$26,459.18, plus all post judgment interest, court costs and costs of sale awarded therein or pursuant to the Texas Tax Code, due on said tracts or parcels of land. I hereby verify, certify and declare under penalty of perjury that I delivered a true and correct copy of this Notice of Foreclosure Sale by Certified Mail and First-Class Mail through the United States Postal Service, return receipt requested, to each of the defendant named in said Judgment.

Dated at Newton County, Texas this 12 day of August, 2022.

Newton County Constable's Office, Precinct 2, Texas


By: Jeff McCoy
Constable of Newton County, Precinct 2, Texas