8/21/2023 11:12 AM Marilyn Burgess - District Clerk Harris County Envelope No. 78729256

By: Joshua Hall Filed: 8/21/2023 11:12 AM

CAUSE NO		
IN RE: ORDER FOR FORECLOSURE	§	IN THE DISTRICT COURT OF
CONCERNING 5951 BELDART STREET	§	
HOUSTON, TX 77033 UNDER TEX. R. CIV.	§	
PROC. 736	§	
	§	
PETITIONER:	§	
	§	
AVT TITLE SERVICES, LLC THE	§	HARRIS COUNTY, TEXAS
APPOINTED SUBSTITUTE TRUSTEE FOR	§	
THE BANK OF NEW YORK MELLON AS	§	
TRUSTEE FOR THE CIT HOME EQUITY	§	
LOAN TRUST 2003-1	§	
	§	
RESPONDENT(S):	§	JUDICIAL DISTRICT
	§	
BRITA GODFREY AND GLORIA GODFREY	§	

APPLICATION FOR AN EXPEDITED ORDER UNDER RULE 736 ON A HOME EQUITY LOAN

- 1. **Petitioner** is AVT TITLE SERVICES, LLC THE APPOINTED SUBSTITUTE TRUSTEE FOR THE BANK OF NEW YORK MELLON AS TRUSTEE FOR THE CIT HOME EQUITY LOAN TRUST 2003-1 whose last known address is C/O SHELLPOINT MORTGAGE SERVICING, 75 BEATTIE PLACE SUITE 300, GREENVILLE, SC 29601.
- 2. Respondent(s) is(are) BRITA GODFREY AND GLORIA GODFREY (hereinafter

"Respondent(s)"), whose last known address(es) is(are):

BRITA GODFREY
5951 BELDART STREET
HOUSTON, TX 77033
GLORIA GODFREY
5951 BELDART STREET
HOUSTON, TX 77033

3. The property encumbered by the loan agreement, contract, or lien sought to be foreclosed ("Property") is commonly known as 5951 BELDART STREET, HOUSTON, TX 77033 with the following legal description:

LOT TWENTY-TWO (22), IN BLOCK TWENTY (20), OF BELFORT PARK, SECTION TWO (2), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 39, PAGE 11, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

4. Petitioner alleges:

- A) The type of lien sought to be foreclosed is a home equity lien securing a debt created under Tex. Const. Art. XVI §50(a)(6). The lien is indexed at Document W579723 and recorded in the real property records of HARRIS County, Texas.
- B) Petitioner has the authority to seek foreclosure of the lien because it is the Beneficiary of the security instrument.
- C) The name of each Respondent obligated to pay the underlying debt or obligation evidenced by the loan agreement, contract, or lien encumbering the property sought to be foreclosed is:

 BRITA GODFREY AND GLORIA GODFREY
- D) The name of each Respondent who is a mortgagor of the lien instrument sought to be foreclosed, but who is not a maker or assumer of the underlying debt, is: N/A.
- E) As of 08/04/2023:
 - 1. 11 monthly installments have not been paid. The amount required to cure the default is \$10,738.23. According to Petitioner's records, all lawful offsets, payments, and credits have been applied to the account in default.
 - 2. The total amount required to pay off the loan agreement, contract, or lien is \$50,735.90.
- F) Notice to cure the default has been sent by certified mail to each Respondent who is obligated to pay the underlying debt or obligation. The opportunity to cure has expired.
- G) Before this application was filed, any other action required to initiate a foreclosure proceeding by Texas law or the loan agreement, contract, or lien sought to be foreclosed was performed.
- 5. Legal action is not being sought against the occupant of the property unless the occupant is named as a Respondent in this application.
- 6. If Petitioner obtains a court order, Petitioner will proceed with foreclosure of the property in accordance with applicable law and the terms of the loan agreement, contract, or lien sought

to be foreclosed.

- 7. The following documents are attached to this application:
 - A) An affidavit or declaration of material facts describing the basis for foreclosure.
 - B) The note and security instrument establishing the lien.
 - C) The current assignment of the lien recorded in the real property records of the county where the property is located.
 - **D)** A copy of each default notice required to be mailed to any Respondent under Texas law and the loan agreement, contract, or lien sought to be foreclosed and the USPS Tracking report demonstrating that a notice was sent by certified mail before this application was filed.
- 8. 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 Petitioner or Petitioner's attorney immediately.
- 9. Prayer for Relief. Petitioner seeks an expedited order under Rule 736 so that it may proceed with foreclosure in accordance with applicable law and terms of the loan agreement, contract, or lien sought to be foreclosed.

Respectfully submitted,

MACKIE WOLF ZIENTZ & MANN, P.C.

/s/Ester Gonzales

Ester Gonzales
Attorney, State Bar No. 24012708
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Parkway Office Center, Suite 900
14160 Dallas Parkway
Dallas, TX 75254
(214) 635-2650 (Phone)
(214) 635-2686 (Fax)

ATTORNEYS FOR PETITIONER

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	8	
RESPONDENT(S):	Š	
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BRITA GODFREY AND GLORIA GODFREY	§	JUDICIAL DISTRICT
A SEED IN A COURT OF THE COURT	יויויים	TIONED'S ADDITION FOR

CATICENIO

AFFIDAVIT IN SUPPORT OF PETITIONER'S APPLICATION FOR AN EXPEDITED ORDER UNDER RULE 736

STATE OF	Texas		***************************************	§					
COUNTY OF	Harris) }							
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2. I am	a(n)	Docume 1	tVersition	Specialist	o	f NEW	REZ LI	LC F/K/A N	EW PENN
FINA	NCIALD	/B/A SH	ELLPOINT	MORTGAGI	E SERV	ICING	whose a	ddress is 75 B	eattie Place
Suite	300, Gree	enville S	ຶ C 29601. M	y affidavit co	ncerns	the acc	ount of l	BRITA GODI	FREY AND
GLOI	RIA GOD	FREY (`	Obligor`). I	am THE BA	NK OF	NEW	YORK 1	MELLON AS	TRUSTEE
FOR	THECT	т ном	E EQUITY	LOAN TR	UST 2	2003-1`s	s (`Petit	ioner') duly	authorized
repres	entative.	NEWRI	EZ LLC F	/K/A NEW	PENN	FINA	NCIAL	D/B/A SH	ELLPOINT
MOR	rgage s	SERVICII	NG is the ag	ent for loan s	ervice a	adminis	tration fo	or Petitioner.	

3. I have read and understand the purpose of the application to which my affidavit is attached and adopt by reference the statements made in it. 3. I am the authorized agent or representative for Petitioner with respect to Obligor's account, and in that capacity, I am authorized to make this affidavit on Petitioner's behalf. My testimony is based on my experience, my knowledge of the

- usual business practices of NEWREZ LLC F/K/A NEW PENN FINANCIAL D/B/A SHELLPOINT MORTGAGE SERVICING and the servicing industry in general, my job responsibilities, and the servicing records for Obligor's account.
- 4. Through my job responsibilities, I have access to and have reviewed the servicing records and data for Obligor's account, including electronic and computer generated records and can compilations. The records attached to the application are the original records or exact displicates of the original records kept in the servicing file for Obligor's account.
- 5. Based on the regular practices of NEWREZ LLC F/K/A NEW PENN FINANCIAL D/B/A SHELLPOINT MORTGAGE SERVICING and the servicing industry in general, these records:
 - a) were made at or near the time of each act, event or condition set forth in the records;
 - b) were made by, or from information transmitted by, a person engaged in the servicing of Obligor's account who had actual knowledge of the acts, events, or conditions recorded; and
 - c) are the kind of records that are kept in the regular course of servicing loan agreements.
- 6. It is the regular practice of businesses engaged in the servicing of loan agreements or other contracts requiring the collection of money to keep accurate records on debits and credits to an account, an account's balance, the collateral securing the right to the lienholder's right to repayment, and efforts to enforce the underlying debt if the Obligor has defaulted. These records are relied upon for accuracy by all persons engaged in the servicing and enforcement of a loan agreement. There is no indication that the servicing records for Obligor's account are untrustworthy.
- 7. Based on the Servicing records for Obligor's account, as of 08/04/2023, the loan agreement is due for the 10/12/2022 payment, and the number of unpaid scheduled monthly payments is 11. As of 08/04/2023, the amount required to cure the default is \$10,738.23, and the total amount required to pay off the loan agreement, contract, or lien is \$50,735.90. A copy of each default notice required to be mailed to any Respondent under Texas law and the loan agreement, contract, or lien sought to be foreclosed, and the USPS Tracking report demonstrating that a notice was sent by certified mail before this application was filed.

records for Obligor's account	. The statem	ents made in the application	n and my affidavit are true
and correct as of the date state	d.		
SIGNED THIS day of .	August	, 2023.	
		Winston Johnson	
		(Printed Name) NEWRE SHELLPOINT MORTGATTORNEY IN FACE FORK MELLON AS TREAMED HOME EQUITY LOAN	AGE SERVICING AS OR THE BANK OF NEW USTEE FOR THE CIT
		(Signature)	[- <u>/</u>
State of <u>Jexas</u> County of <u>Harris</u>	· · · · · · · · · · · · · · · · · · ·		
Signed under oath before me of the Notary Public, State of tevas	on 1 day	My commission expires:	
		MARY L. COCHE Notary Public, State of Proceedings Comm. Expires 06-19 Notary ID 112802	Texes 2026

8. I sign the affidavit based on the personal knowledge that I have obtained by reviewing the servicing