

FILED

Notice of Foreclosure Sale

March 28, 2024

MAR 28 2024

2:30 Jh
Brenda Fietsam

BRENDA FIETSAM

CO. CLERK, FAYETTE CO., TEXAS

Texas Home Equity Fixed/Adjustable Rate Note

Texas Home Equity Security Instrument (First Lien) ("Deed of Trust"):

Dated: July 26, 2018

Grantor: Robert Lee Dornak Jr. and spouse, Heather Dornak

Trustee: Loretta Williams

Lender: Texas Dow Employees Credit Union

Recorded in: Filed of record under clerk's file number 18-05143 of the real property records of Fayette County, Texas, as corrected by that one certain Correction Instrument as to Recorded Original Instrument under Clerk's File Number 18-05316

Legal Description: **Being 2.293 acres of land out of the John McGown Survey, Abstract No. 238, in Fayette County, Texas, TOGETHER WITH: Tract Two: all that certain tract or parcel of land Non-Exclusive Easement situated in Fayette County, Texas, a part of the John McGown 3/4 League, Abstract No. 238, and also a part of a 18.9 acre tract of land described in a deed, John Edward Bigley to A.C. Cowan, dated August 15, 1980, of record in Volume 562, Page 31, of the Deed Records of Fayette County, Texas and Tract Three: all that certain tract or parcel of land, 0.43 of One Acre Non-Exclusive Easement situated in Fayette County, Texas, a part of the John McGown League, Abstract No. 238, and also a part of a 18.9 acre tract of land described in a deed to Ernest O. Bigley of record in Volume 544, Page 477, of the Deed Records of Fayette County, Texas; said 2.293 acres of land together with Tract Two easement and Tract Three 0.43 acre easement all being more particularly described in Exhibit "A" (consisting of 4 pages) attached hereto and incorporated herein for all purposes.**

With corrected Exhibit "A" corrected by correction instrument filed under Clerk's Instrument Number 18-05316 Vol: 1868 Page 838; Real Property Records, Fayette County, Texas. Said Exhibit "A" consisting of two pages.

Property Address: 5202 Cowan Rd., Flatonina, TX 78941

Secures: Texas Home Equity Fixed/Adjustable Rate Note (“Note”) in the original principal amount of \$460,000.00, executed by Robert Lee Dornak Jr. and Heather Dornak (“Borrower”) and payable to the order of Lender

Property: The real property, improvements, and personal property described in and mortgaged in the Deed of Trust, and all rights and appurtenances thereto.

Substitute Trustee: Jacquelyn D. McAnelly, M. H. Cersonsky, John “Cortland” Timm.

Substitute Trustee’s Address: 1770 St. James Place, Suite 150, Houston, Texas 77056

Foreclosure Sale:

Date: May 7, 2024

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: On the Fayette County Courthouse lawn on the west side at the posting board located on the stone wall enclosure of the courthouse facing West Colorado Street near its intersection with North Main Street, or if the preceding area is no longer the designated area, at the area most recently designated by the County Commissioner’s Court.

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 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, 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 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 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.

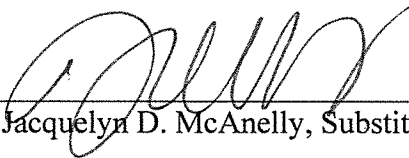
If Lender passes the Foreclosure Sale, notice of the date of any rescheduled foreclosure sale will be reposted and refiled in accordance with the posting and filing requirements of the Deed of Trust and the Texas Property Code.

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 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.



Jacquelyn D. McAnelly, Substitute Trustee

HEARITIGE SURVEYING, CO.

TIM D. HEARITIGE
727 West Point Loop
West Point, Texas 76963

Registered Professional Land Surveyor No. 5036
Licensed State Land Surveyor
Phone (979) 242-3485

August 3, 2013

FIELD NOTE DESCRIPTION OF 2.293 ACRES OF LAND OUT OF THE JOHN McGOWEN BILVEY ABSTRACT NO. 238, IN FAYETTE COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN (72.50 ACRES) TRACT OF LAND CONVEYED TO ROBERT LEE DORNAK, SR. AND DORIS LAVENE DORNAK IN A DEED AS RECORDED IN VOLUME 659 PAGE 26 OF THE DEED RECORDS OF FAYETTE COUNTY, TEXAS, AND BEING THAT SAME (2.293 ACRES) TRACT OF LAND CONVEYED TO ROBERT DORNAK, JR. IN A DEED AS RECORDED IN VOLUME 1163 PAGE 604 OF THE OFFICIAL RECORDS OF FAYETTE COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1" axle found at the base of a brace corner post, being at the most northeasterly corner of that certain (72.50 acre) tract of land conveyed to Robert Lee Dornak, Sr. and Doris Lavene Dornak in a deed as recorded in Volume 659 Page 26 of the Deed Records of Fayette County, Texas, and being at the most southeasterly corner of that certain (294.80 acre) tract of land conveyed to Tommy B. Tipton and Pamela K. Tipton in a deed as recorded in Volume 993 Page 766 of the Official Records of Fayette County, Texas, and being at an angle in the westerly line of that certain (16.9 acre) tract of land conveyed to Charles Hattbach and Mary Hattbach in a deed as recorded in Volume 1163 Page 604 of the Official Records of Fayette County, Texas, and also being at the most northerly northeast corner of that certain (2.293 acre) tract of land conveyed to Robert Dornak, Jr. in a deed as recorded in Volume 1510 Page 440 of the Official Records of Fayette County, Texas, and being in the westerly line of a 40' access easement described in the Hattbach deed, and being for the most northeasterly corner of the tract herein described,

THENCE, with the westerly line described in the Hattbach deed, also being the easterly line of the (2.293 acre) Dornak tract, S 02 deg. 07' 05" E 41.20 feet to a 1/2" iron rod found at the base of a fence corner post at the southwesterly terminus of said 40' access easement, and being for the most westerly southeast corner of this tract,

THENCE, leaving said westerly line, and with the southeasterly line of the (2.293 acre) Dornak tract, S 20 deg. 34' 44" W 361.27 feet to a 1/2" iron rod found in the interior of the Dornak (72.5 acre) tract, being for the most southerly southeast corner of this tract,

THENCE, with the southerly line and northwesterly line of the (2.293 acre) Dornak tract, N 78 deg. 20' 14" W 259.77 feet to a 1/2" iron rod found for the most southwesterly corner of this tract, and N 19 deg. 08' 59" E 326.82 feet to a 1/2" iron rod found in the fence along the common line between the Dornak (72.5 acre) tract and the Tipton tract, being for the most northwesterly corner of this tract,

THENCE, with the common line between the Dornak (72.5 acre) tract and the Tipton tract, being the southerly line of (2.293 acre) Dornak tract, EAST 318.34 feet to the PLACE OF BEGINNING, in all containing 2.293 acres of land.

SURVEYED: July 11, 2013

BY:

[Handwritten Signature]
Timothy D. Hearitige
Registered Professional Land Surveyor No. 5036

see accompanying map to. C 155068



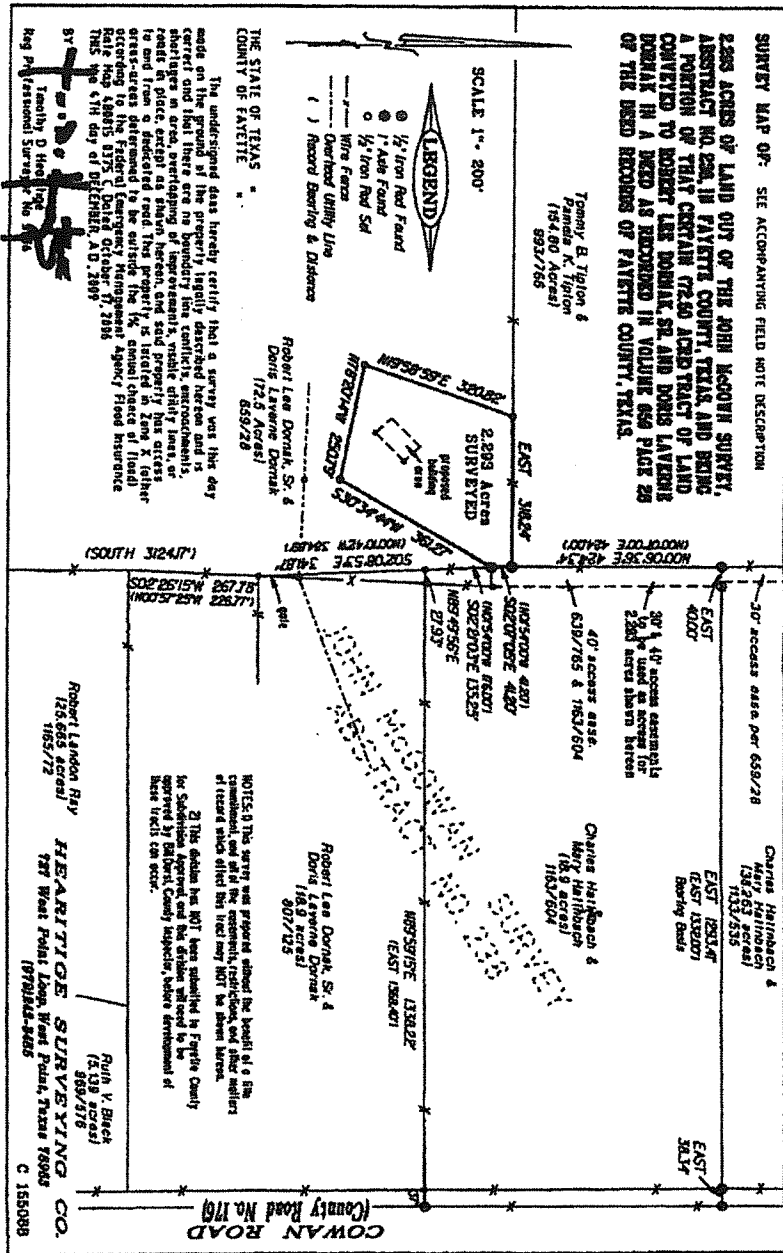


Exhibit "A", Page 2 of 2

Tract Two: Non-Exclusive Easement:

The full and free right, easement and liberty at all times hereafter, in common with all other persons who may have the like right, to have and to use the certain road providing access to the Public Road, which is described as follows:

All that certain tract or parcel of land situated in Fayette County, Texas, a part of the John McGown $\frac{3}{4}$ League, Abstract No. 238, and also a part of a 18.9 acre tract of land described in a deed, John Edward Bigley to A.C. Cowan, dated August 15, 1980, of record in Volume 562, Page 31, of the Deed Records of Fayette County, Texas, and a 18.9 acre tract of land described in a deed, Ernest Owen Bigley, et al. to Maggie Waldine Cowan, dated October 13, 1979, of record in Volume 544, Page 469, of the Deed Records of Fayette County, Texas; said easement being more particularly described by metes and bounds as follows, to-wit:

Beginning at an iron pin set in the junction of the west margin and the north margin of a public road, same being the northeast corner of the 18.9 acre A.C. Cowan tract described in Volume 562, Page 31, above referred to, same being the northeast corner of the easement herein described;

Thence North $88^{\circ} 42'$ West – 129.1 feet, and South $88^{\circ} 51'$ West 1253.1 feet to the northwest corner of the 18.9 acre A.C. Cowan tract and the northwest corner of the easement described herein;

Thence South $0^{\circ} 50'$ East – 881 feet and South $0^{\circ} 07'$ West 303.7 feet to the Southwest corner of the 18.9 acre Maggie Waldine Cowan tract described in Volume 544, Page 31, above referred to, same being the northwest corner of a 0.43 acre tract conveyed to A.C. Cowan in Volume 639, Page 765, of the Deed Records of Fayette County, Texas, same being the southwest corner of the easement described herein;

Thence East – 30 feet to the southernmost southeast corner of the easement described herein;

Thence North $0^{\circ} 07'$ East – 303.7 feet and North $0^{\circ} 50'$ West – 851 feet to an interior ell corner;

Thence North $88^{\circ} 51'$ East – 1223.1 feet and South $88^{\circ} 42'$ East 129.1 feet to the west margin of the public road; same being the southeast corner hereof;

Thence North $0^{\circ} 06 \frac{1}{2}'$ West – 30 feet to the place of beginning.

Being the same easement called "Tract Two" in Guardian's Deed, A.C. Cowan et al to Robert Lee Dornak, Sr. et ux, dated May 4, 1984 of record in Volume 659, Page 28, Deed Records of Fayette County, Texas.

Tract Three: Non-Exclusive Easement:

The full and free right, easement and liberty at all times hereafter, in common with all other persons who may have the like right, to have and to use the certain road providing access to the Public Road, which is described as follows:

ALL that certain tract or parcel of land, 0.43 of One Acre, situated in Fayette County, Texas, a part of the John McGowan League, Abstract No. 238, and also a part of a 18.9 Acre tract of land described in a deed to Ernest O. Bigley of record in Volume 544, Page 477, of the Deed Records of Fayette County, Texas; said 0.43 of One Acre of land also being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at an iron pin found at the northwest corner of the said Ernest O. Bigley 18.9 Acre tract, same being the southwest corner of a 18.9 Acre tract of land described in a deed to Maggie Waldine Cowan of record in Volume 544, Page 469, of the Deed Records of Fayette County, Texas, same also being the northwest corner of the land herein described;

THENCE EAST - 40 feet with the south margin of the said Maggie Waldine Cowan tract and the north margin of the said Ernest O. Bigley tract to a stake and the northeast corner of the land herein described;

THENCE SOUTH 0° 04' East - 465.2 feet to a stake and the southeast corner of the land herein described;

THENCE WEST - 40 feet to a stake and the southwest corner of the land herein described, same being situated in the west margin of the said Ernest O. Bigley Tract, same also being situated in the east margin of a 72-1/2 Acre tract of land conveyed to A. C. Cowan in a deed of record in Volume 331, Page 597, of the Deed Records of Fayette County, Texas;

THENCE NORTH 1° 54' West - 41.2 feet with the said west margin of the said Ernest O. Bigley Tract and the said east margin of the said A. C. Cowan tract to an iron rod and the northeast corner of the said A. C. Cowan tract;

THENCE NORTH 0° 07' East - 424.0 feet continuing with the said west margin of the said Ernest O. Bigley Tract to the Point of Beginning and containing within these metes and bounds 0.43 of One Acre of land.

Being the same tract of land described in a Warranty Deed, Ernest O. Bigley, et ux to A. C. Cowan, dated August 2, 1983, of record in Volume 639, Page 765, Deed Records of Fayette County, Texas.

INST. #:18-05143
Vol:1867 Page:857

Being the same property described in Easement, A.C. Cowan to Robert Lee Dornak, Sr. et ux, dated May 4, 1984 of record in Volume 659, Page 24, Deed Records of Fayette County, Texas.

Cause No.: 2023V-015

In Re: Order for Foreclosure Concerning	§	IN THE DISTRICT COURT OF
5202 Cowan Rd., Flatonia, TX 78941.	§	
Under Tex. R. Civ. P. 736	§	
	§	
Petitioner:	§	FAYETTE COUNTY, TEXAS
Texas Dow Employees Credit Union	§	
	§	
Respondents:	§	
Robert Lee Dornak Jr., Heather Dornak, and	§	
Occupant of the Property	§	155th DISTRICT COURT

DEFAULT ORDER ALLOWING FORECLOSURE

1. On this day, the Court considered Petitioner’s motion for default order granting its application for an expedited order under Rule 736. Petitioner’s application complies with the requirements of Texas Rules of Civil Procedure 736.1.

2. The names and last known addresses of each Respondent subject to this order are Robert Lee Dornak Jr., whose last known address is 5202 Cowan Rd., Flatonia, TX 78941, Heather Dornak, whose last known address is 5202 Cowan Rd., Flatonia, TX 78941, and Occupant of the Property, whose last known address is 5202 Cowan Rd., Flatonia, TX 78941. Each Respondent was properly served with the citation, but none filed a response within the time required by law. The return of service for each Respondent has been on file with the court for at least ten days.

3. The property that is the subject of this foreclosure proceeding is commonly known as 5202 Cowan Rd., Flatonia, TX 78941 with the following legal description:

Being 2.293 acres of land out of the John McGown Survey, Abstract No. 238, in Fayette County, Texas, TOGETHER WITH: Tract Two: all that certain tract or parcel of land Non-Exclusive Easement situated in Fayette County, Texas, a part of the John McGown 3/4 League, Abstract No. 238, and also a part of a 18.9 acre tract of land described in a deed, John Edward Bigley to A.C. Cowan, dated August 15, 1980, of record in Volume 562, Page 31, of the Deed Records of Fayette County, Texas and Tract Three: all that certain tract or parcel of land, 0.43 of One Acre Non-Exclusive Easement situated in Fayette County, Texas, a part of the John

McGown League, Abstract No. 238, and also a part of a 18.9 acre tract of land described in a deed to Ernest O. Bigley of record in Volume 544, Page 477, of the Deed Records of Fayette County, Texas; said 2.293 acres of land together with Tract Two easement and Tract Three 0.43 acre easement all being more particularly described in Exhibit "A" (consisting of 4 pages) attached hereto and incorporated herein for all purposes.

With corrected Exhibit "A" corrected by correction instrument filed under Clerk's Instrument Number 18-05316 Vol: 1868 Page 838; Real Property Records, Fayette County, Texas. Said Exhibit "A" consisting of two pages.

4. The lien to be foreclosed is indexed or recorded at Instrument Number: 18-05143 and recorded in the real property records of Fayette County, Texas, with correction instruments 18-05316 and 18-05317 and recorded in the real property records of Fayette County, Texas.

5. The material facts establishing Respondent's default are alleged in Petitioner's application and the supporting affidavit. Those facts are adopted by the court and incorporated by reference in this order.

6. Based on the affidavit of Petitioner, no Respondent subject to this order is protected from foreclosure by the Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et. seq.

7. Therefore, the Court grants Petitioner's motion for default order under Texas Rules of Civil Procedure 736.7 and 736.8. Petitioner may proceed with foreclosure of the property described above in accordance with applicable law and the loan agreement, contract, or lien sought to be foreclosed.

8. This order is not subject to a motion for rehearing, a new trial, a bill of review, or an appeal. Any challenge to this order must be made in separate, original proceeding filed in accordance with Texas Rule of Civil Procedure 736.11.

SIGNED this 7th day of February, 2024.

FILED
At 9.30 o'clock A M

FEB 07 2024
UNDA SURCEL
Clerk District Court, Fayette County, Texas
By [Signature] Deputy

[Signature]
JUDGE JEFF R. STEINHAUSER

HEARITICE SURVEYING, CO.

TIM D. HEARITICE
227 West Point Lane
West Point, Texas 76783

Registered Professional Land Surveyor No. 5636
Licensed State Land Surveyor
Phone (972) 242-3483

August 1, 2013

THIRD NINE HUNDRED EIGHTY-ONE (921) ACRES OF LAND OUT OF THE JOHN DONAK TRACT, INTERACTING THE HEARITICE COUNTY, TEXAS, AND BEING A PORTION OF TRACT ONE (1) 2.50 ACRES TRACT OF LAND CONVEYED TO ROBERT LEE DONAK, JR. AND DONALD LAYNE DONAK IN A DEED AS RECORDED IN VOLUME 499 PAGE 28 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS, AND BEING THAT SAME (2.50 ACRES) TRACT OF LAND CONVEYED TO ROBERT DONAK, JR. IN A DEED AS RECORDED IN VOLUME 1810 PAGE 480 OF THE OFFICIAL RECORDS OF TARRANT COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1" wide iron nail set in the top of a 4" iron corner post, being at the most northerly corner of that certain (72.50 acre) tract of land conveyed to Robert Lee Donak, Jr. and Linda Layne Donak in a deed as recorded in Volume 499 Page 28 of the Deed Records of Tarrant County, Texas, and being at the most southerly corner of that certain (184.90 acre) tract of land conveyed to Henry B. Tipton and Pamela K. Tipton in a deed as recorded in Volume 590 Page 166 of the Official Records of Tarrant County, Texas, and being at an angle to the westerly line of that certain (1.5 acre) tract of land conveyed to Charles Harshbath and Elsie Harshbath in a deed as recorded in Volume 1163 Page 976 of the Official Records of Tarrant County, Texas, and also being at the most northerly northeast corner of that certain (2.293 acre) tract of land conveyed to Robert Donak, Jr. in a deed as recorded in Volume 1810 Page 480 of the Official Records of Tarrant County, Texas, and being in the westerly line of a .97 acre tract described in the Harshbath deed, and being the most northerly corner of the tract herein described,

THENCE, with the westerly line described in the Harshbath deed, also being the easterly line of the (2.293 acre) Donak tract, S 82 deg. 47' 45" E 42.26 feet to a 1/2" iron nail fixed at the base of a 4" iron corner post at the south westerly terminus of said 40' access easement, and being the most westerly southeast corner of this tract,

THENCE, leaving said westerly line, and with the southerly line of the (1.293 acre) Donak tract, S 88 deg. 34' 24" W 241.27 feet to a 1/2" iron nail fixed in the direction of the Donak (72.5 acre) tract, being for the most easterly southeast corner of this tract,

THENCE, with the southerly line and northwesterly line of the (1.293 acre) Donak tract, N 78 deg. 14' 14" W 239.77 feet to a 1/2" iron nail fixed in the most southerly corner of this tract, and N 17 deg. 01' 39" E 330.32 feet to a 1/2" iron nail fixed in the place along the constant line between the Donak (72.5 acre) tract and the Tipton tract, being for the most northwesterly corner of this tract,

THENCE, with the distance line between the Donak (72.5 acre) tract and the Tipton tract, being the westerly line of (2.293 acre) Donak tract, EAST 318.34 feet to the PLACE OF BEGINNING, in all containing 2.293 acres of land.

SURVEYED July 11, 2013

BY:

[Handwritten Signature]
Timothy D. Hearitice
Registered Professional Land Surveyor No. 5636

not accompanying map no. C-13506



