



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-16-00421-CV**

JOHN S. ELLIOTT AND RITA  
ELLIOTT

APPELLANTS

V.

DEUTSCHE BANK NATIONAL  
TRUST COMPANY, AS  
INDENTURE TRUSTEE FOR FBR  
SECURITIZATION TRUST 2005-5,  
MORTGAGE-BACKED NOTES,  
SERIES 2005-5

APPELLEE

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FROM THE 271ST DISTRICT COURT OF WISE COUNTY  
TRIAL COURT NO. CV16-01-067  
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**MEMORANDUM OPINION<sup>1</sup>**  
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Appellants John S. Elliott and Rita Elliott attempt to appeal from a “Home Equity Foreclosure Order” signed on October 3, 2016. On December 13, 2016,

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<sup>1</sup>See Tex. R. App. P. 47.4.

we sent a letter to Appellants expressing our concern that we may not have jurisdiction over this appeal because the foreclosure order does not appear to be an appealable order. See Tex. R. Civ. P. 736.8(c) (“An order granting or denying the [foreclosure] application is not subject to a motion for rehearing, new trial, bill of review, or appeal. Any challenge to a Rule 736 order must be made in a suit filed in a separate, independent, original proceeding in a court of competent jurisdiction.”). We stated that unless Appellants or any party desiring to continue the appeal filed a response showing grounds for continuing the appeal by December 27, 2016, the appeal could be dismissed for want of jurisdiction. See Tex. R. App. P. 42.3(a), 44.3. We did not receive any response. Accordingly, we dismiss the appeal for want of jurisdiction.<sup>2</sup> See Tex. R. App. P. 42.3(a), 43.2(f).

PER CURIAM

PANEL: WALKER, MEIER, and GABRIEL, JJ.

DELIVERED: February 9, 2017

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<sup>2</sup>Appellants have also filed a “Motion for Stay of Action on Appeal,” asking that we stay their appeal pending the trial court’s resolution of a “Motion for Reconsideration” of the “Home Equity Foreclosure Order.” Because we lack jurisdiction over this appeal, we take no action on Appellants’ “Motion for Stay of Action on Appeal.” See *Scales v. Horsley*, No. 02-16-00328-CV, 2016 WL 6277382, at \*1 n.3 (Tex. App.—Fort Worth Oct. 27, 2016, no pet.) (“Because we lack jurisdiction over this appeal, we take no action on Scales’s motion.”).