48299

MTC-14824

Vol. M85 Page 6367

ASSIGNMENT

'85 MAY 1 PM 12 36

For value received, WASHBURN ENTERPRISES, INC., an Oregon corporation, ("Assignor") assigns the following-described property ("Collateral"), together with all monies due or to become due thereunder, and grants a security interest therein to FIRST INTERSTATE BANK OF OREGON, N.A. ("Bank"), its successors and assigns all Assignor's right, title and interest in and to:

That certain promissory note dated July 29, 1983 in the principal amount of $180,000.00, together with interest thereon, executed by Jim L. Thompson, and secured by a Trust Deed dated July 29, 1983 between Jim L. Thompson, as Grantor, Klamath County Title Company, as Trustee, and Washburn Enterprises, Inc., as Beneficiary, a copy of which is attached as Exhibit A and by this reference made a part hereof, recorded on July 29, 1983 in Volume No. M83 on page 12563 or as Microfilm No. 26392 in the Record of Mortgages of Klamath County, Oregon.

"Obligor" shall mean the account debtor, lessee, contract purchaser, or the other person(s) obligated for the payment of money, as the case may be.

Assignor warrants to Bank that:

(1) Assignor is the absolute owner of Collateral;

(2) Assignor has not heretofore assigned or granted a security interest in Collateral or any sums of money due or to become due thereunder, or any right or interest therein or thereto;

(3) the full amount payable according to the terms of Collateral is justly owing and payable in accordance with the terms thereof;

(4) there are no defaults existing under Collateral;

(5) there are no offsets or counterclaims to Collateral;

(6) as of the date of this assignment there is now unpaid and owing thereon $ 168,363.77 .

Assignor covenants to Bank that he will strictly and promptly perform each of the terms, conditions, covenants, and agreements contained in Collateral to be performed by Assignor.

Assignor shall not, without Bank's prior written consent, now or at any time, sell, pledge, transfer, assign, modify or terminate its interest in and to Collateral.

This assignment is made as security for the payment of Assignor's promissory note to Bank dated August 20, 1979 in the principal amount of $ 600,000.00, together with interest thereon in accordance with its terms and tenor, and together with any renewals or extensions thereof, and as security for the payment of any and all indebtedness now or at any time hereafter owing by Assignor to Bank, whether absolute, contingent due or to become due, primary or secondary, and however evidenced. The maturity date of the note is May 1, 1990.

Assignor hereby authorizes and directs Obligor to pay and deliver to Bank, upon Bank's demand to Obligor, all sums of money payable by the terms of Collateral and to accept the receipt of Bank therefor. Until Bank makes demand on Obligor, Assignor shall continue to collect the proceeds of Collateral. Assignor shall, at the request of Bank, hold the proceeds received from collection in trust for Bank without commingling the same with other funds of Assignor and shall turn the same over to Bank immediately upon receipt in the identical form received. Assignor shall, at the request of Bank, notify Obligor of Bank's interest in Collateral and Bank may, itself, at any time so notify Obligor. Obligor shall be under no obligation to determine that any indebtedness hereby secured is owing or to see to the application of any sums of money paid to Bank and the receipt of Bank shall constitute a complete acquittance to the extent of any payment made to Bank by Obligor until Bank shall notify Obligor in writing that Assignor is no longer indebted to Bank.

It is expressly understood and agreed that Bank shall not be required or obligated in any manner to make any demand or to take any action to collect or enforce the payment of any amount which may have been assigned to it or to which it may have been entitled hereunder at any time or times.

This assignment is not a delegation or assignment to Bank of Assignor's duties or obligations under or in connection with Collateral. Bank's acceptance of this assignment does not constitute a promise by it nor does it in any way obligate it to perform any of Assignor's duties or obligations under or in connection with Collateral.

6369

Assignor hereby appoints Bank, its successors and assigns, its attorney in fact, irrevocably, with full power of substitution, to demand, collect, receive, receipt for, sue and recover all sums of money which may now or hereafter become due, owing, or payable from Obligor in accordance with the terms of Collateral; to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts, or warrants issued in payment therefor and to settle or compromise any and all claims arising under Collateral assigned to Bank and, in the place and stead of Assignor, execute and deliver its release and acquittance therefor; to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Assignor, or otherwise, which, in the discretion of Bank may seem to be necessary or advisable to execute in Assignor's name and deliver to Obligor on Assignor's behalf, at the time and in the manner specified by Collateral, a deed or bill of sale to property being purchased by Obligor pursuant to Collateral and described therein. This power is given as security for an indebtedness and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Bank.

Assignor shall pay to Bank upon demand, any and all expenses, including reasonable attorney fees, incurred or paid by Bank without suit or action in protecting its rights upon or under this assignment. In the event suit or action is instituted in connection with any controversy between Assignor and Bank arising out of this assignment, the prevailing party shall be entitled to recover, at trial or on appeal, such sums as the court may adjudge reasonable as attorney fees, in addition to costs and necessary disbursements. Moreover, Assignor shall pay to Bank upon demand, any and all expenses including reasonable attorney fees, incurred or paid by Bank with or without any suit or action in protecting its rights as against any third party upon or under this assignment.

Assignor agrees that at any time or from time to time, upon written request of Bank, he will execute and deliver such further documents and do such further acts and things as Bank may request in order to further effect the purposes of this assignment.

In the construction of this assignment, the singular includes the plural and the masculine pronouns include the feminine and neuter. If more than one assignor executes this assignment the liability of each assignor shall be joint and several.

IN WITNESS WHEREOF, Assignor has caused this assignment to be executed by its duly authorized officer(s) the 30th day of April, 1984 5 Dan

WASHBURN ENTERPRISES, INC.

By Dorman A. Turner
Title: Pres.

By Irene Byrnes
Title: V. Pres

STATE OF OREGON)
: ss.
County of Klamath)

The foregoing Assignment was acknowledged before me this 30th day of April, 1984 5 by Dorman A. Turner, the President of Washburn Enterprises, Inc. on behalf of the corporation, and by Irene Byrnes, the Vice President of Washburn Enterprises, Inc. on behalf of the corporation.

(SEAL)

CLARA CALEY NOTARY PUBLIC STATE OF OREGON

Clara Caley
Notary Public for Oregon
My Commission expires:
April 8, 1988

THIS TRUST DEED, made this ...... day of ...... [illegible] ......, between
JIM L. THOMPSON

6371

as Grantor, KLAMATH COUNTY TITLE COMPANY ......, as Trustee, and
WASHBURN ENTERPRISES, INC., an Oregon corporation,

as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in ...... Klamath ...... County, Oregon, described as:

Lot 3, Block 5, Tract 1080, WASHBURN PARK, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

SUBJECT to encumbrances, easements and restrictions set forth in grantor's deed,

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of ONE HUNDRED EIGHTY THOUSAND AND NO/100 --- *Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable* .. August 1, ..., 19 88 .

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than $ ......, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may [illegible]

(a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than $5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligation secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding the amounts provided by law) [illegible] *the default, in which event all foreclosure proceedings shall be dismissed by the trustee.*

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, [illegible] *having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.*

16. For any reason permitted by law beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. [illegible]

17. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee. [illegible]

EXHIBIT A

6372

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto, except as hereinabove stated,

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:
~~(a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below),~~
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

*** IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required, disregard this notice.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

[signature]

STATE OF OREGON,
County of Klamath } ss.
7-29, 19 83.
Personally appeared the above named JIM L. THOMPSON
and acknowledged the foregoing instrument to be his voluntary act and deed.
Before me:
(OFFICIAL SEAL)
[signature]
Notary Public for Oregon
My commission expires: 12-13-86

(ORS 93.490)

STATE OF OREGON, County of ....) ss.
......................, 19......
Personally appeared .... and .... who, each being first duly sworn, did say that the former is the .... president and that the latter is the .... secretary of ....
a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.
Before me:
Notary Public for Oregon
My commission expires:
(OFFICIAL SEAL)

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: ...., Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to

DATED: ...., 19......

Return: MTC

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED

(FORM No. 881)

STATE OF OREGON,
County of Klamath } ss.
I certify that the within instrument was received for record on the 29 day of July, 19 83, at 3:50 o'clock P.M.

STATE OF OREGON: COUNTY OF KLAMATH:ss
I hereby certify that the within instrument was received and filed for record on the 1st day of May A.D., 19 85 at 12:36 o'clock P M, and duly recorded in Vol M85, of Mortgages on page 6367.

Fee: $ 25.00

EVELYN BIEHN, COUNTY CLERK
by: [signature], Deputy