

54808

Vol. 1198 Page 8628

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

STATE OF OREGON

County of Klamath

] ss.
]

that:

I, RICHARD FAIRCLO, being duly sworn, depose and say and certify

At all times hereinafter mentioned I was and am now a resident of the State of Oregon, a competent person over the age of eighteen years and not the beneficiary or his successor of interest named in the attached original notice of sale given under the terms of that certain trust deed described in said notice.

I gave notice of the sale of the real property described in the attached notice of sale by mailing a copy thereof by both first class and certified mail with return receipt requested to each of the following named persons at their respective last known addresses, to-wit:

Marciano Lacbain
741 Morro Way
Oxnard CA 93030

Zoraida Lacbain
741 Morro Way
Oxnard CA 93030

Benjamin Capili
4941 Alexander Drive
Oxnard CA 93030

Perigrina Capili
4941 Alexander Drive
Oxnard CA 93030

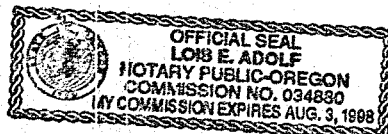
Said persons include (a) the grantor in the trust deed, (b) any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice (c) any person, including the Department of Revenue or any other state agency, having a lien or interest, subsequent to the trust deed if the lien or interest appears of record of the beneficiary has actual notice of the lien or interest, and (d) any person request notice, as required by ORS 86.785.

Each of the notices so mailed was certified to be true copy of the original notice of sale by RICHARD FAIRCLO, attorney for the trustee named in said notice; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States Post Office at Klamath Falls, Oregon, on March 17 1998, as mailed with a proper form to request and obtain a return receipt and postage thereon in the amount sufficient to accomplish the same. Each of said notices was mailed after the notice of default and election to sell described in said notice of sale was recorded.

As used herein, the singular includes the plural, trustee includes successor trustee, and person includes corporation and any other legal or commercial entity.

SUBSCRIBED AND SWORN to before me this 17 day of March, 1998.

Notary Public of Oregon
My Commission expires:



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NOTICE OF DEFAULT AND ELECTION TO SELL

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Reference is made to that certain trust deed made by MARCIANO LACBAIN and ZORAIDA LACBAIN, husband and wife, as to an undivided 1/2 interest; BENJAMIN CAPILI and PEREGRINA CAPILI, Husband and Wife, as to an undivided 1/2 interest, as tenants in common, are the grantors, and MOUNTAIN TITLE COMPANY is the trustee, and SHAMROCK DEVELOPMENT COMPANY, an Oregon Corporation, is the beneficiary under that certain trust deed dated August 23, 1989, and recorded October 9, 1989, in Volume No. M89 page 19061, Mortgage Records of Klamath County, Oregon. The beneficial interest was assigned by instrument dated September 11, 1989, recorded October 9, 1989, at Volume M89, page 19066, Microfilm Records of Klamath County, Oregon from Shamrock Development Company to Kerry S. Penn dba Eli Property Company, and reassigned from Kerry S. Penn dba Eli Property Co. to Shamrock Development Company, an Oregon Corporation, such reassignment recorded at Vol. M97 Page 12624, covering the following described real property situated in said county and state, to-wit:

Lot 3 in Block 7 of TRACT 1083, CEDAR TRAILS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. Tax Account No. 4008 020A0 02500.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default of which the foreclosure is made is grantor's failure to pay when due the following sums:

Monthly payments in the amount of \$222.29 due on October 9, 1997, and each and every month thereafter, plus taxes for a portion of the fiscal year 1996-97 and for the fiscal year 1997-98 in the amount of \$211.88 plus interest. Account No. 4008-020A0-02500.

By reason of said default, the beneficiary has declared all sums owing on the obligation secured by said trust deed immediately due and payable, said sums being the following, to-wit:

\$15,620.63 plus interest at the rate of \$4.1901 per diem from 12/5/97, plus taxes for a portion of the fiscal year 1996-97 and for the fiscal year 1997-98 in the amount of \$211.88 plus interest. Account No. 4008-020A0-02500.

WHEREFORE, notice hereby is given that the undersigned trustee will on July 29, 1998, at the hour of 10:00 o'clock, A.M., in accordance with the standard of time established by ORS 187.110, at front steps of Klamath Falls Post Office, 317 South Seventh Street, in the City of Klamath Falls, County of Klamath, State of Oregon, sell at public auction to the highest bidder for cash the interest in the said described real property which the grantor had or had power to convey at the time of the execution by him of the said trust deed, together with any interest which the grantor or his successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of the principal as would not then to be due had no default occurred) and by curing any other default complained of herein that is capable of

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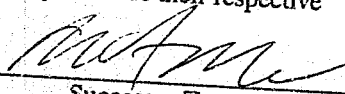
Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

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being cured by tendering the performance required under the obligation or trust deed, and in addition to paying said sums of tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.753.

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

DATED: March 17, 1998


Successor Trustee

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AND ELECTION TO SELL
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At:
Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Richard Fairclo the 18th day
of March A.D., 19 98 at 9:35 o'clock A. M., and duly recorded in Vol. M98
of Mortgages on Page 8628.

FEE \$20.00

By Bernetha G. Letsch, County Clerk
Kathleen Ross