

AFTER RECORDING RETURN TO:

\*\*\*MICHAEL J. BIRD, Attorney

P. O. BOX 1249

GRANTS PASS, OR 97526-0311

ATE 47671

## NOTICE OF DEFAULT AND ELECTION TO SELL

REFERENCE is made to that certain Trust Deed made by **RODNEY D. MILLER and KELLY A. MILLER**, as grantor, and **ASPEN TITLE & ESCROW, INC.**, as trustee, in favor of **FLOYD A. McCURDY**, dated December 12, 1996, recorded December 16, 1996, in the mortgage records of Klamath County, Oregon, as Fee No. 30016, Volume No. M96, Page No. 39056, covering the following described real property situated in the above-mentioned county and state, to-wit:

Lot 3, Old Orchard Manor, in the City of Klamath Falls, in the County of Klamath, State of Oregon.  
CODE 1 MAP 3809-34CB TL 6700

The undersigned hereby certifies that no assignments of the aforementioned Trust Deed by the trustee or by the beneficiary and no appointments of a successor trustee have been made except as recorded in the mortgage records of the county in which the above-described real property is situated, further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the aforementioned Trust Deed, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 86.735(4).

There is a default by the grantor or other person owing an obligation, the performance of which is secured by the aforementioned Trust Deed, or by the successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision; the default for which foreclosure is made is grantor's failure to pay when due the following sums:

- (a) Monthly payments of \$455.00 each commencing February 16, 1998 and thereafter;
- (b) Late payments in the amount of 5% of any installment which is not received by collecting agent within 15 days after installment is due;
- (c) Real property taxes, plus interest thereon
- (d) In case of foreclosure by note holder, the 6 month interest prepayment penalty will be due and payable;

By reason of the default, the beneficiary has declared all sums owing on the obligations secured by the aforementioned Trust Deed immediately due and payable, those sums being the following, to-wit:

- (a) The principal sum of \$39,000.00, with interest thereon at the rate of 14.00 percent per annum beginning December 16, 1997, until paid.
- (b) Late payments in the amount of 5% of any installment which is not received by collecting

agent within 15 days after installment is due;

(c) Real property taxes, plus interest thereon.

(d) In case of foreclosure by note holder, the 6 month interest prepayment penalty will be due and payable;

(e) Title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the beneficiary for the protection of the above described real property and beneficiary's interest therein.

Notice hereby is given that the beneficiary and trustee, by reason of the default, have elected and do hereby elect to foreclose the aforementioned Trust Deed by advertisement and sale pursuant to ORS 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the described property which the grantor had, or had the power to convey, at the time of the execution by grantor of the Trust Deed, together with any interest the grantor or grantor's successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by the Trust Deed and the expenses of the sale, including the compensations of the trustee as provided by law, and the reasonable fees of trustee's attorneys.

The sale will be held at the hour of at 10:00 o'clock, A.M., in accord with the standard of time established by ORS 187.110 on September 29, 1998, at the front steps of Aspen County Title, 525 Main Street, Klamath Falls, Oregon, 97601, Klamath County, Oregon, which is the hour, date and place last set for the sale.

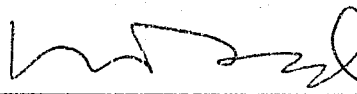
Other than as shown of record, neither the beneficiary nor the trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the Trust Deed, or of any successor in interest to the grantor or of any lessee or other person in possession of or occupying the property, except: NONE.

Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five (5) 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 be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation or Trust Deed, and in addition to paying the sums or 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 ORS 86.753.

In construing this notice, 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 of which is secured by the aforementioned Trust Deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

16005

DATED this 8 day of May, 1998.



MICHAEL J. BIRD, Successor Trustee

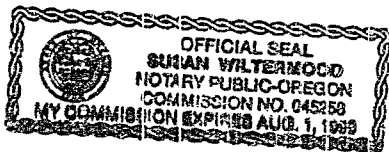
STATE OF OREGON )

) ss.

County of Josephine )

On this 8 day of May, 1998, personally appeared the above-named MICHAEL J. BIRD, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before Me:



Notary Public for Oregon

My Commission Expires: 8/1/99

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title & Escrow the 11th day  
of May A.D., 19 98 at 3:38 o'clock P. M., and duly recorded in Vol. M98,  
of Mortgages on Page 16003.

FEE \$20.00

By Kathleen Rosen Bernetha G. Letsch, County Clerk