

Affidavit of Publication

Vol M01 Page 57252

STATE OF OREGON, COUNTY OF KLAMATH

I, Larry L. Wells, Business Manager, being first duly sworn, depose and say that I am the principal clerk of the publisher of the Herald and News a newspaper in general circulation, as defined by Chapter 193 ORS, printed and published at Klamath Falls in the aforesaid county and state: that the

Legal # 4352

Foreclosure

McCarty vs. Van Winkle

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for: (4)
Four

Insertion(s) in the following issues:
September 16, 23, 30, October 7, 2001

Total Cost: \$1,215.00

Larry L. Wells
Subscribed and sworn
before me on: October 7, 2001

Debra A. Gribble
Notary Public of Oregon

My commission expires March 15, 2004

NOTICE OF DEFAULT AND ELECTION TO SELL

Reference is made to that certain trust deed made by LEE A. VAN WINKLE and ELIZABETH A. VAN WINKLE, as Tenants by the Entirety, as grantor, to ASPEN TITLE AND ESCROW, INC., as trustee, in favor of HERMAN MCCARTY and C. ROLAND MCCARTY, as beneficiary, dated January 19, 1998, recorded January 26, 1998, in the mortgage records of Klamath County, Oregon, in book/reel/volume No. M98 at page 2406, covering the following described real property situated in said county and state, to-wit: Exhibit "A": attached hereto and incorporated herein by this reference.

F. The land referred to in this Guarantee is described as follows: PARCEL 1:

A tract of land situated in the NE 1/4 SE 1/4 of Section 12, Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

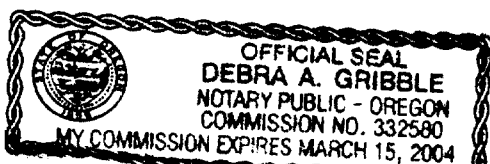
Beginning at the Southwest corner of Lot 20 of Tract 1283, a duly recorded subdivision, from which the C-E 1/16 corner of said Section 12 bears North 43 degrees 58' 06" West 1,293.09 feet; thence along the South line of said Tract 1283 South 89 degrees 24' 23" East 225.01 feet and South 87 degrees 54' 27" East 245.01 feet to the West of STEWART, a duly recorded subdivision; thence

South 00 degrees 52' 27" East, along the said West line, 197.92 feet to the Northerly right of way line of State Highway 66; thence along the said right of way line, South 00 degrees 52' 27" East 10.43 feet and South 72 degrees 39' 23" West 633.27 feet, more or less, to its intersection with the South line of the said NE 1/4 SE 1/4 of section 12; thence North 89 degrees 17' 51" West, along the said South line, 703.39 feet, more or less, to the Easterly right of way line of Orindale Road; thence along the said right of way line, North 35 degrees 01' 33" West 75.62 feet and North 00 degrees 28' 18" East 346.91 feet to its intersection with the South line of said Tract 1283 extended; thence South 89 degrees 24' 23" East 875.38 feet to the point of beginning, with bearings based on the plat of Tract 1283.

PARCEL 2:

A tract of land situated in the NE 1/4 SE 1/4 of Section 12, Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows: Beginning at the Northeast corner of Lot 1 of Tract 1283, a duly recorded subdivision, said point also on the West line of STEWART, a duly recorded subdivision, from which the C-E 1/16 corner of said Section 2 bears North 78 degrees 07' 06" West 1,387.66 feet; thence along the boundary of said Tract 1283, South 72 degrees 47' 33" West 189.39 feet, South 68

degrees 25' 43" West 80.51 feet, South 54 degrees 05' 35" West 87.78 feet, South 38 degrees 48' 27" West 87.78 feet South 23 degrees 31' 19" West 87.78 feet and South 09 degrees 30' 40" West 75.31 feet; thence North 89 degrees 24' 23" West 903.86 feet to the Easterly right of way line of Orindale Road; thence North 00 degrees 28' 18" East, along the said right of way line, 104.21 feet to a point on the South line of that tract of land described in Deed Volume M-92, page 20434 of the Klamath County Deed Records; thence along said Deed Volume, North 89 degrees 10' 27" East 353.86 feet and North 00 degrees 28' 18" East 112.70 feet to the Southeast corner of that tract of land described in Deed Volume M-92, Page 20842 of the Klamath County Deed Records; thence along said Deed Volume, North 00 degrees 28' 18" East 122.69 feet and South 89 degrees 10' 27" West 353.86 feet to its intersection with the Easterly right of way line of Orindale Road; thence North 00 degrees 28' 18" East, along the said right of way line, 142.91 feet to the Southwest corner of that tract of land described in Deed Volume M-79, Page 11866 of the Klamath County Deed Records; thence along said Deed Volume, North 89 degrees 10' 27" East 353.86 feet and North 00 degrees 28' 18" East 117.52 feet to the Southerly right of way line of Balsam Drive; thence south 89 (continued) degrees 46' 36" East,



along the said right of way line, 732.08 feet to the Northwest corner of that tract of land described in Deed Volume 327, Page 475 of the Klamath County Deed Records; thence along said Deed Volume, South 00 degrees 49' 55" East 178.70 feet and South 89 degrees 46' 36" East 238.70 feet to a point on the said West line of STEWART; thence South 00 degrees 49' 55" East 71.76 feet to the point of beginning, with bearings based on the plat of Tract 1283.

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 Section 86.753(3) of Oregon Revises Statutes. The Default for which the foreclosure is made

is grantor's failure to pay when due the following sums: Payments in the amount of \$1,313.33 per month from April 1999 through the present.

Taxes for the fiscal year 1998-1999 in the sum of \$476.34 plus interest thereon.

Taxes for the fiscal year 1998-1999 in the sum of \$488.10 plus interest thereon.

Taxes for the fiscal 1998-1999 in the sum of \$2,756.62 plus interest thereon.

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:

\$197,000.00 as of December 4, 1998 plus interest.

WHEREFORE, notice hereby is given that the undersigned trustee will on November 8, 2001 at the hour of 10 AM Standard time, as established by Section 187.110, Oregon Revised Statutes, at 280 Main 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 said described real property which the grantors had or had power to convey at the time of the execution by him of said trust deed, to satisfy the foregoing obligations thereby secured and the costs or their 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 Section 86.753 of Oregon Revised Statutes has the right, at any time prior to five days before the trustee conducts 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 said 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 said Section 86.753 of Oregon Revised Statutes.

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 of which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Dated: July 3, 2001.
Scott D. MacArthur,
Successor Trustee.
#4352 September 16,
23, 30, October 7,
2001.

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

57254

**AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE RE: Trust Deed from
Lee A. VanWinkle & Elizabeth A. VanWinkle**

TO

Herman McCarty and C. Roland McCarty, Beneficiary

☞ After recording return to:
Scott D. MacArthur, P.C.
280 Main Street
Klamath Falls, OR 97601

STATE OF OREGON, County of Klamath) ss.

I, Scott D. MacArthur, being first duly sworn, depose, and say and certify that:

At all times hereinafter mentioned I was and now am a resident of the State of Oregon, a competent person over the age of eighteen years and not the beneficiary or beneficiary's successor in interest named in the attached original notice of sale given under the terms of that certain 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 (or their legal representatives, where so indicated) at their respective last known addresses, to-wit:

Lee A. Van Winkle, P.O. Box 217, Dairy, OR 97625.

Lee A. Van Winkle, P.O. Box 7180, Klamath Falls, OR 97603.

Elizabeth A. Van Winkle, P.O. Box 217, Dairy, OR 97625.

Candace Amborn, Bankruptcy Trustee, P.O. Box 580, Medford, OR 97501

Circuit Court, State of Oregon, Klamath County, Attn. TCA, 316 Main Street, Klamath Falls, OR 97601

Supply One, C/O Pamela Yee, Attorney at Law, 18525 SW Vincent Street, Aloha, OR 97007

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 or the beneficiary has actual notice of the lien or interest, and (d) any person requesting notice, as required by ORS 86.785.

Each of the notices so mailed was certified to be a true copy of the original notice of sale by Scott D. MacArthur, 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,

57255

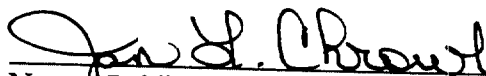
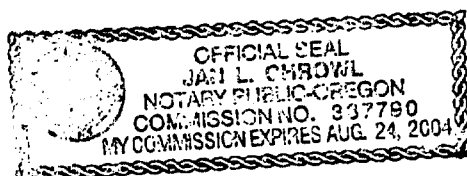
Oregon, on July 6, 2001, With respect to each person listed above, one such notice was mailed with postage thereon sufficient for first class delivery to the address indicated, and another such notice was mailed with a proper form to request and obtain a return receipt and postage thereon in the amount 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.



Scott D. MacArthur, Successor Trustee

Subscribed and sworn to before me this 7th day of November, 2001.



Notary Public for Oregon

My commission expires _____

AFFIDAVIT OF NON-OCCUPANCY

57256

STATE OF OREGON, County of Klamath) ss.

I, SCOTT D. MacARTHUR, being first duly sworn, depose and certify that:

I am the Successor Trustee under the Trust Deed delivered by Lee A. Van Winkle & Elizabeth A. Van Winkle, as grantor to Aspen Title and Escrow, Inc., as Trustee to Herman McCarty and C. Roland McCarty, dated January 19, 1998 and recorded January 26, 1998 at Volume M98, page 2406 of the Mortgage Records of Klamath County, Oregon covering the following described property situated in Klamath County, Oregon

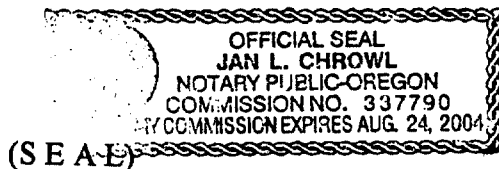
Exhibit "A" attached hereto and incorporated herein by this reference.

I hereby certify that the above described real property was not occupied at the time the Notice of Default and Election to Sell was recorded on July 5, 2001.

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

Scott D. MacArthur

Subscribed and sworn to before me this 7th day of November, 2001.



Jan L. Chrowl
Notary Public for Oregon
My Commission Expires: _____

CERTIFICATE OF NON-OCCUPANCY

After Recording return to:
Scott D. MacArthur, P.C.
280 Main Street
Klamath Falls, OR 97601

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Exhibit "A"

State of Oregon, County of Klamath
Recorded 11/07/01 308 p. m.
In Vol. M01 Page 57252
Linda Smith,
County Clerk Fee\$ 46⁰⁰