

Affidavit of Publication

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 # 4354

Foreclosure

McCarty vs. Van Winkle Mueller

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

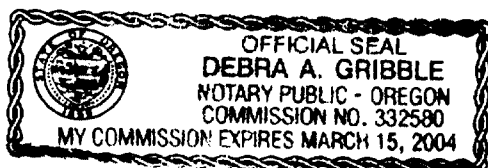
Total Cost: \$864.00

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 VAN WINKLE-MUELLER CONSTRUCTION, LLC, as grantor, to ASPEN TITLE AND ESCROW, INC., as trustee, in favor of HERMAN MCCARTY and C. ROLAND MCCARTY, as beneficiary, dated September 23, 1997, recorded November 4, 1997, in the mortgage records of Klamath County, Oregon, in book/reel/volume No. M97 at page 36558, covering the following described real property situated in said county and state, to-wit: Exhibit "A": attached hereto and incorporated herein by this reference.

EXHIBIT "A"
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 1293.09 feet; thence North 89 degrees 24' 23" West 875.38 feet to a point on the Easterly right of way line of Orindale Road; thence along said Easterly right of way line North 00 degrees 28' 18" East 64.00 feet to the Southwest corner of that tract of land described in Deed Vol-

ume M-83 at Page 3783 of the Klamath County Deed Records; thence along said Deed Volume South 89 degrees 46' 29" East (South 88 degrees 53' 37" East by Deed Volume M-83, Page 3783) 50.00 feet, North 00 degrees 28' 18" East 53.00 (North 01 degree 22' 10" West by Deed Volume M-83, Page 3783) feet and North 89 degrees 46' 29" West (North 00 degrees 52' 37" by Deed Volume M-83, Page 3783) 50.00 feet to a point on said Easterly right of way; thence along said Easterly right of way North 00 degrees 28' 18" East 168.00 feet; thence South 89 degrees 24' 23" East 903.86 feet to a point on the Westerly line of said

Tract 1283; thence along said Westerly line South 00 degrees 35' 37" West 100.00 feet, North 89 degrees 24' 23" West 27.88 feet and South 00 degrees 35' 37" West 185.00 feet to the point of beginning, with bearings based on said Tract 1283. CODE 7 MAP 3908-12DA TL 200 (Affects this and other property)

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 86.735(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 \$526.66 per month from July

1999 through the present. Taxes for the fiscal year 1998-1999 in the sum of \$405.45 plus interest thereon. Taxes for the fiscal year 1998-1999 in the sum of \$415.48 plus interest thereon. Taxes for the fiscal year 1998-1999 in the sum of \$682.04 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: \$74,008.00 as of May 25, 1999 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.
 #4354 September 16,
 23, 30, October 7,
 2001.

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

57260

**AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE RE: Trust Deed from
VanWinkle-Mueller, LLC**

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.

Van Winkle-Mueller Construction, LLC, 7350 Southside Bypass, Klamath Falls, OR 97603.

James Mueller, 16081 Algoma Road, Klamath Falls, OR 97601

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

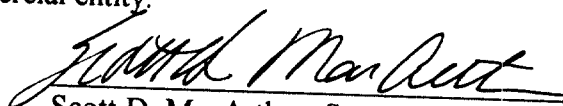
Circuit Court, State of Oregon, Klamath County, Attn. TCA, 316 Main Street, Klamath Falls, OR 97601

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.

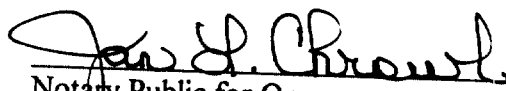
Each of the notices so mailed was certified to be a true copy of the original notice of sale by Scott D. MacArthur, attorney for the trustee named in said notice; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States post office at Klamath Falls, 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

57262

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 Van Winkle-Mueller Construction, LLC, as grantor to Aspen Title and Escrow, Inc., as Trustee to Herman McCarty and C. Roland McCarty, dated September 23, 1997 and recorded November 4, 1997 at Volume M97, page 36558 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.



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




Notary Public for Oregon
My Commission Expires: _____

CERTIFICATE OF NON-OCCUPANCY

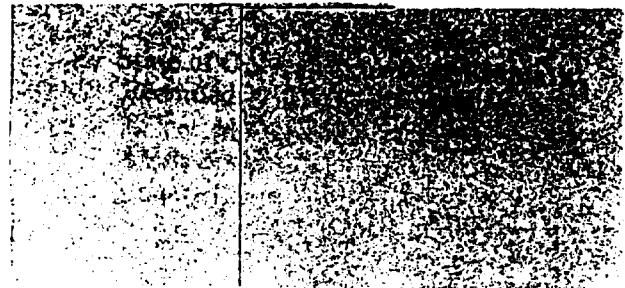
After Recording return to:
Scott D. MacArthur, P.C.
280 Main Street
Klamath Falls, OR 97601

57263

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 1293.09 feet; thence North 89 degrees 24' 23" West 875.38 feet to a point on the Easterly right of way line of Orindale Road; thence along said Easterly right of way line North 00 degrees 28' 18" East 64.00 feet to the Southwest corner of that tract of land described in Deed Volume M-83 at Page 3783 of the Klamath County Deed Records; thence along said Deed Volume South 89 degrees 46' 29" East (South 88 degrees 53' 37" East by Deed Volume M-83, Page 3783) 50.00 feet, North 00 degrees 28' 18" East 53.00 (North 01 degree 22' 10" West by Deed Volume M-83, Page 3783) feet and North 89 degrees 46' 29" West (North 88 degrees 52' 37" by Deed Volume M-83, Page 3783) 50.00 feet to a point on said Easterly right of way; thence along said Easterly right of way North 00 degrees 28' 18" East 168.00 feet; thence South 89 degrees 24' 23" East 903.86 feet to a point on the Westerly line of said Tract 1283; thence along said Westerly line South 00 degrees 35' 37" West 100.00 feet, North 89 degrees 24' 23" West 27.88 feet and South 00 degrees 35' 37" West 185.00 feet to the point of beginning, with bearings based on said Tract 1283.

CODE 7 MAP 3908-12DA TL 200 (Affects this and other property)



State of Oregon, County of Klamath
 Recorded 11/07/01 3:08 p. m.
 In Vol. M01 Page 57258
 Linda Smith,
 County Clerk Fee\$ 46⁰⁰