

02 SEP 11 PM 2:24

ASPEN 54457

Vol M02 Page 51736

WHEN RECORDED MAIL TO:

LAW OFFICES OF STEVEN J. MELMET, INC.  
2912 S. Daimler Street  
Santa Ana, CA 92705-5811

State of Oregon, County of Klamath  
Recorded 09/11/2002 2:24 p. m.  
Vol M02, Pg 51736-44  
Linda Smith, County Clerk  
Fee \$ 61.00 # of Pgs 9

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THE SPACE ABOVE LINE IS FOR RECORDER'S USE ONLY

T.S. NO.: 2002-28667-D  
LOAN NO.: 1001132115

**AFFIDAVITS OF MAILING, PUBLICATION, AND SERVICE  
OF NOTICE OF DEFAULT AND ELECTION TO SELL  
AND TRUSTEE'S NOTICE OF SALE**

61A

51737

T.S. NO.: 2002-28667-D  
LOAN NO.: 1001132115

**AFFIDAVIT OF MAILING NOTICE OF SALE**  
**FIDELITY NATIONAL TITLE**

2410046

STATE OF CALIFORNIA  
COUNTY OF ORANGE

I, **TERI VON ACHEN**, being first duly sworn, depose, say and certify that: At all times hereinafter mentioned I was and now am a resident of the State of CALIFORNIA, a competent person over the age of eighteen years and not the beneficiary or his successor in interest named in the attached original or copy of notice of sale given under the terms of that certain trust deed described in said notice.

I gave notice of sale of the real property described in the attached notice of sale by mailing a copy thereof by registered or certified mail and regular mail to each of the following named person's at their last known address, attached hereto.

Said person(s) include the grantor in the trust deed, any successor in interest to the grantor whose interest appears of records or whose interest the trustee or the beneficiary has actual notice, and any persons requesting notice as provided in ORS 86.785, and all junior lien holders as provided in ORS 86.740.

Each of the notices so mailed were certified to be a true copy of the original notice of sale by **A. FRAGASSI**, for **FIDELITY NATIONAL TITLE INSURANCE COMPANY**, 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 Santa Ana, CA on 5/15/2002. Each of said notices was mailed after the notice of default and election to sell described in said Notice of Sale was recorded and at least 120 days before the day fixed in said notice by the trustee for the trustee's sale.

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



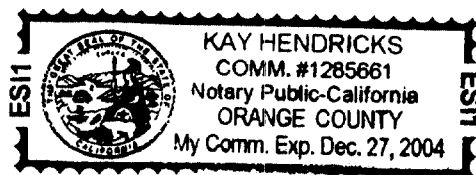
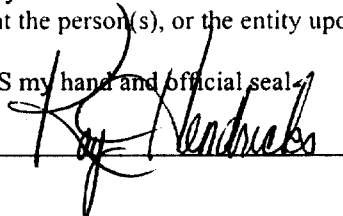
TERI VON ACHEN

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On May 15, 2002 before me, the undersigned, A Notary Public in and for said State, personally appeared **TERI VON ACHEN** personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature



T.S. No. 2002-28667-D

**NOTICES WERE SENT TO THE FOLLOWING PARTIES:**

<u>NAME</u>	<u>ADDRESS</u>
JUST M. COLE	1270 HOMEDALE ROAD KLAMATH FALLS, OR 97603
ARLIE K. COLE	1270 HOMEDALE ROAD KLAMATH FALLS, OR 97603
JUST M. COLE	PO BOX 763 KLAMATH FALLS, OR 97601
ARLIE K. COLE	PO BOX 763 KLAMATH FALLS, OR 97601

**TRUSTEE'S NOTICE OF SALE****51739**

Pursuant to O.R.S. 86.705, et seq. and O.R.S. 79.5010, et seq.  
Trustee No.: 2002-28667-D

Reference is made to that certain Trust Deed made by **JUST M. COLE AND ARLIE K. COLE, AS TENANTS BY THE ENTIRETY**, as Grantor, to **ASPEN TITLE**, as Trustee, in favor of **INDYMAC BANK, F.S.B.**, as Beneficiary, dated 11/22/2000, recorded 11/28/2000, in the mortgage records of **KLAMATH, Oregon**, as Instrument No. , in Book **VOL MOO**, Page **42614**. The beneficial interest under said Trust Deed and the obligations secured thereby are presently held by **BANKERS TRUST COMPANY OF CALIFORNIA AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT SERIES SPMD 2001-A**. Said Trust Deed encumbers the following described real property situated in said county and state, to-wit:

**PARCEL 1 OF LAND PARTITION 45-97 BEING A PORTION OF LOT 59 OF FAIR ACRES SUBDIVISION NO. 1, SITUATED IN THE NW 1/4 SE 1/4 OF SECTION 35, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF KLAMATH, STATE OF OREGON.**

The street address or other common designation, if any, of the real property described above is purported to be:

**1270 HOMEDALE ROAD  
KLAMATH FALLS, OR 97603**

The undersigned Trustee disclaims any liability for any incorrectness of the above street address or other common designation.

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 for which the foreclosure is made is Grantor's failure to pay when due, the following sums:

<u>FROM</u>	<u>INT. RATE</u>	<u>NO. PMT</u>	<u>AMOUNT</u>	<u>IMPOUND</u>	<u>TOTAL</u>
11/1/2001	11.75	11	\$757.06	\$60.26	\$8,990.52

<b>Late Charges:</b>	<b>\$416.35</b>
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<b>ADVANCES:</b>	<b>AMOUNT</b>
<b>ADDL LATE FEES</b>	<b>\$37.85</b>

<b>Grand Total:</b>	<b>\$9,444.72</b>
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ALSO, if you have failed to pay taxes on the property, provide insurance on the property or pay other senior liens or encumbrances as required in the note and Deed of Trust, the beneficiary may insist that you do so in order to reinstate your account in good standing. The beneficiary may require as a condition to reinstatement that you provide reliable written evidence that you have paid all senior liens or encumbrances, property taxes, and hazard insurance premiums. These requirements for reinstatement should be confirmed by contacting the undersigned Trustee.

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:

The unpaid principal balance of **\$74,761.28** together with interest thereon at the current rate of **11.75%** per annum from **10/1/2001** until paid, plus all accrued late charges, escrow advances, attorney fees and costs, and any other sums incurred or advanced by the beneficiary pursuant to the terms and conditions of said deed of trust.

WHEREFORE, notice hereby is given that the undersigned trustee will, on **9/18/2002**, at the hour of **10:00 AM** in accord with the standard of time established by O.R.S. 187.110 at the following place;

**AT THE MAIN ENTRANCE TO THE KLAMATH COUNTY COURTHOUSE, 316 MAIN STREET,  
KLAMATH FALLS, OREGON**

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 has or had power to convey at the time of execution by him of the said Trust Deed, together with any interest which the Grantor 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 reasonable charge by the trustee.

Notice is further given that any person named in O.R.S. 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 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 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.

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes 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: **May 01, 2002**

**FIDELITY NATIONAL TITLE INSURANCE  
COMPANY**

By *Andy Fragassi*

For further information, please contact:

**FIDELITY NATIONAL TITLE INSURANCE COMPANY  
401 S.W. 4th AVENUE  
PORTLAND, OR 97204  
C/O LAW OFFICES OF STEVEN J. MELMET, INC.  
(949) 263-1000**

STATE OF CA }  
COUNTY OF OR } ss.

I certify that I, *Andy Fragassi* am an authorized representative of FIDELITY NATIONAL TITLE INSURANCE COMPANY, Trustee, and that the foregoing is a complete and exact copy of the original trustee's notice of sale.

*Andy Fragassi*  
Authorized Representative of Trustee

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE  
USED FOR THAT PURPOSE.**

# AFFIDAVIT OF MAILING

51741

TS: 2002-28667-D  
DATE: May 15, 2002

The declarant, whose signature appears below, states that (s)he is over the age of eighteen (18) years; is employed in Orange County at 2912 S. Daimler, Santa Ana, CA 92705 by Law Offices of Steven J. Melmet, and is not a party to he within action; and that on the date set forth above, (s)he personally served the Notice of Default / Trustee Sale, of which the annexed is a true copy, by depositing in the United States Mail a copy of such Notice in a sealed envelope, certified or registered mail and regular mail or as otherwise indicated below, with postage prepaid, such envelope being addressed to the person(s) named at the addresses below.



I declare under penalty of perjury that the foregoing is true and correct.

JUST M. COLE  
1270 HOMEDALE ROAD  
KLAMATH FALLS, OR 97603  
CERTIFIED:71086095528006767180

JUST M. COLE  
1270 HOMEDALE ROAD  
KLAMATH FALLS, OR 97603  
First Class

ARLIE K. COLE  
1270 HOMEDALE ROAD  
KLAMATH FALLS, OR 97603  
CERTIFIED:71086095528006767197

ARLIE K. COLE  
1270 HOMEDALE ROAD  
KLAMATH FALLS, OR 97603  
First Class

JUST M. COLE  
PO BOX 763  
KLAMATH FALLS, OR 97601  
CERTIFIED:71086095528006767203

JUST M. COLE  
PO BOX 763  
KLAMATH FALLS, OR 97601  
First Class

ARLIE K. COLE  
PO BOX 763  
KLAMATH FALLS, OR 97601  
CERTIFIED:71086095528006767210

ARLIE K. COLE  
PO BOX 763  
KLAMATH FALLS, OR 97601  
First Class

2002-28667-D

14009-14

**PROOF OF SERVICE  
JEFFERSON STATE ADJUSTERS**

51742

STATE OF OREGON

COUNTY OF KlamathCOURT CASE NO. none

I hereby certify that I served the foregoing individuals or other legal entities to be served, named below, by delivering or leaving true copies or original, certified to be such by the Attorney for the Plaintiff/Defendant, as follows:

- |                                      |  |                                   |  |
|--------------------------------------|--|-----------------------------------|--|
| <input type="checkbox"/> Small Claim | <input type="checkbox"/> Order             | <input type="checkbox"/> Subpoena | <input type="checkbox"/> Order to Show Cause                 |
| <input type="checkbox"/> Summons     | <input type="checkbox"/> Motion            | <input type="checkbox"/> Notice   | <input checked="" type="checkbox"/> Trustee's Notice of Sale |
| <input type="checkbox"/> Complaint   | <input type="checkbox"/> Affidavit         | <input type="checkbox"/> Petition | <input type="checkbox"/> Writ of Garnishment                 |
| <input type="checkbox"/> Answer      | <input type="checkbox"/> Restraining Order | <input type="checkbox"/> Letter   | <input type="checkbox"/> Writ of Continuing Garnishment      |
- ☒ ~~Trustee's Notice of Default & Election to Sell~~

For the within named: Occupants of 1270 Homedale Road

☒ PERSONALLY SERVED: Original or True Copy to within named, personally and in person to: Just M. Cole at the address below.

☒ SUBSTITUTE SERVICE: By delivering an Original or True Copy to Just M. Cole, a person over the age of 14 who resides at the place of abode of the within named at said abode shown below for: Arlie Cole

☐ OFFICE SERVICE: At the office which he/she maintains for the conduct of business as shown at the address below, by leaving such true copy or Original with \_\_\_\_\_, the person who is apparently in charge.

☐ SERVICE ON CORPORATIONS, LIMITED PARTNERSHIPS OR UNINCORPORATED ASSOCIATIONS SUBJECT TO SUIT UNDER A COMMON NAME.  
Upon \_\_\_\_\_, by (a) delivering such true copy personally and in person, Corporation, Limited Partnership, etc.

to: \_\_\_\_\_ who is a/the \_\_\_\_\_ thereof, or  
(b) leaving such true copy with \_\_\_\_\_, the person who is apparently in charge of the office of \_\_\_\_\_, who is a/the \_\_\_\_\_ thereof.

☐ OTHER METHOD: \_\_\_\_\_

☐ NOT FOUND: I certify that I received the within document for service on \_\_\_\_\_ and after due and diligent search and inquiry, I hereby return that I have been unable to find, the within named respondent, \_\_\_\_\_ within \_\_\_\_\_ County.

*E A Dusky*



1270 Homedale Road

ADDRESS OF SERVICE	STREET	UNIT / APT. / SPC#
<u>Klamath Falls</u>	<u>Oregon</u>	<u>97603</u>
CITY	STATE	ZIP

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon and that I am not a party to nor an officer, director, or employee of nor attorney for any party, corporation or otherwise, that the person, firm or corporation served by me is the identical person, firm, or corporation named in the action.

May 6, 2002

DATE OF SERVICE

10:35 a.m. ☒ p.m. ☐

TIME OF SERVICE

*[Signature]*

SIGNATURE

Dave Shuck

or not found

PRINTED IN OREGON

TEK 212

# Affidavit of Publication

51743

28667

## 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 # 4959

Notice of Sale/Cole

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:

June 16, 23, 30, July 7, 2002

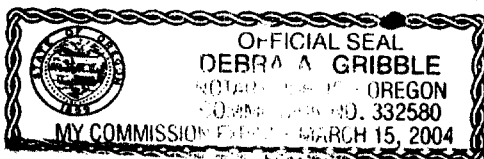
Total Cost:

Subscribed and sworn

before me on: July 7, 2002

Notary Public of Oregon

My commission expires March 15, 2004



### TRUSTEE'S NOTICE OF SALE

Pursuant to ORS 86.705, et seq. and ORS 79.5010, et seq. Trustee No: 2002-28667-D

Reference is made to that certain Trust Deed made by JUST M. COLE, AND AR-LIE K. COLE, as tenants by the entirety, as Grantor to ASPEN TITLE, as Trustee, in favor of INDYMAC BANK, FSB, as Beneficiary, dated 11/22/2000, recorded 11/28/2000, in the mortgage records of Klamath, Oregon, as Instrument No., in Book Vol M00, Page 42614. The beneficial interest under said Trust Deed and the obligations secured thereby are presently held by BANKERS TRUST COMPANY OF CALIFORNIA as Trustee under the Pooling Servicing Agreement Series SPMD 2001-A. Said Trust Deed encumbers the following described real property situated in said county and state, to-wit: PARCEL 1 of land partition 45-97 being a portion of Lot 59 of Fair Acres Subdivision No. 1, situated in the NW 1/4 SE 1/4 of Section 35, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon. The street address, or other common designation, if any, of the real property described above is purported to be: 1270 Homedale Road, Klamath Falls, OR 97603. The undersigned Trustee disclaims any liability for any incorrectness of the above street address or other common designation.

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 for which the foreclosure is made is Grantor's failure to pay when due, the following sums: From: 11/01/2001, Int. Rate: 11.75, No. Pmt.: 11, Amount: \$757.06, Impound: \$60.26, Total: \$8,990.52, Late Charges: \$416.35, Advances: Addl. Late Fees, Amount, \$37.85, Grand Total: \$9,444.72.

ALSO, if you have failed to pay taxes on the property, provide insurance on the property or pay other senior liens or encumbrances as required in the note and Deed of Trust, the beneficiary may insist that you do so in order to reinstate your account in good standing. The beneficiary may require as a condition to reinstatement that you provide reliable written evidence that you have paid all senior liens or encumbrances, property taxes and hazard insurance premiums. These requirements for reinstatement should be confirmed by contacting the undersigned Trustee.

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: The unpaid principal balance of \$74,761.28 together with interest thereon at the cur-

rent rate of 11.75% per annum from 10/01/2001 until paid, plus all accrued late charges, escrow advances, attorney fees and costs, and any other sums incurred or advanced by the beneficiary pursuant to the terms and conditions of said deed of trust.

WHEREFORE, notice hereby is given that the undersigned trustee will on 9/18/2002 at the hour of 10:00 AM in accordance with the standard of time established by ORS 187.110 at the following place: at the main entrance to the Klamath County Courthouse, 316 Main Street, Klamath Falls, Oregon, 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 has or had power to convey at the time of 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



51744

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 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.

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: May 01, 2002.

By: Andy Fragassi,  
Trustee. For further information,  
please contact: Fidelity National Title Insurance Company  
401 SW 4th Ave.,  
Portland, OR 97204,  
c/o Law Offices of  
Steven J. Melmet,  
Inc. (949) 263-1000.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

P174756, 6/15, 6/22,

6/29, 7/06/02.

#4959 June 16, 23, 30,  
July 7, 2002.