

03 DEC 26 AM 11:03

Account Number: 34268160106392199
CAP Number: 033231325260
Date Printed: 12/10/03
Reconveyance Fee: \$ 0.00

State of Oregon, County of Klamath
Recorded 12/26/03 11:09 a m
Vol M03 Pg 93315-19
Linda Smith, County Clerk
Fee \$ 36⁰⁰ # of Pgs 4

WHEN RECORDED MAIL TO:
Bank of America Consumer Collateral Tracking
FL9-700 04-01
9000 Southside Blvd, Bldg 700
Jacksonville, FL 32256

003-210

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4991174

PERSONAL LINE OF CREDIT
TRUST DEED

THIS DEED OF TRUST is made this 11th day of December 2003, between
HERBERT C. WAGNER AND JOYCE M. WAGNER, HUSBAND AND WIFE

Grantor,
whose address is 3347 HOMEDALE KLAMATH FALLS, OR 97603;
and Chicago Title Insurance Company, Trustee,
and Bank of America, N.A., Beneficiary, at its above named address.

WHEREAS Grantor has entered into an agreement with Beneficiary under which Beneficiary agrees to lend to the Grantor from time to time, subject to repayment and reborrowing, up to a total amount outstanding at any point in time of:
Ten Thousand and 00/100'S

(\$ 10,000.00) Dollars which indebtedness is evidenced by Grantor's Agreement and Disclosure Statement Home Equity Line of Credit signed on December 11th, 2003, (herein "Agreement"). The Agreement is incorporated herein by reference as though fully set forth.

TO SECURE to Beneficiary the repayment of the indebtedness evidenced by the Agreement, together with all renewals, modifications, or extensions thereof, with interest thereon, the payment of other sums, with interest thereon, advanced to protect the security of this Deed of Trust, and the performance of the covenants and agreements of Grantor herein contained, together with interest thereon at such rate as may be agreed upon, Grantor does hereby irrevocably grant, bargain, sell and convey to the Trustee in Trust, with the power of sale, the following described property in KLAMATH County, State of Oregon: Property Tax ID # R548394
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF:

together with all tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any wise appertaining, and the rents, issues and profits thereof; it being the express intent of Grantor and Beneficiary that this Deed of Trust and the estate held by Trustee hereunder shall continue in effect notwithstanding that from time-to-time no indebtedness of Grantor to Beneficiary under the Agreement may exist, and shall survive as security for all new or additional indebtedness of Grantor to Beneficiary under the Agreement from time-to-time arising.

MATURITY DATE: The term of the Agreement commences on the date this Deed of Trust is executed and shall end if not paid sooner on NOVEMBER 19, 2028.

VARIABLE INTEREST RATE. This agreement contains a Variable Interest Rate. The interest rate on Grantor's indebtedness under the Agreement may vary from time-to-time in accordance with such rate or rates, as described in the Agreement.

- To protect the security of this Deed of Trust, Grantor covenants and agrees:
1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure, or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.
 2. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens or encumbrances, impairing the security of this Deed of Trust.
 3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire, hazards included within the term "extended coverage" and such other hazards as Beneficiary may require in an aggregate amount not less than the total debt secured by this Deed of Trust and all other prior liens. All policies shall be in such companies as the Beneficiary may approve and have loss payable to the Beneficiary as its interest may appear and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.
 4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary to Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding.

K36.7

5. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses incurred in enforcing the obligations secured hereby including, without limitation Trustee's and Beneficiary's attorney's fees actually incurred, including attorney fees assessed at trial or on appeal.

6. Grantor shall not, without Beneficiary's prior written consent, grant or allow any further encumbrances or liens, voluntary or involuntary, against the property.

7. To promptly and fully perform all of the obligations of the mortgagor or grantor or contract purchaser under any existing mortgage or Deed of Trust or real estate contract on the property, and to save Beneficiary harmless from the consequences of any failure to do so.

8. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, including flood insurance premiums, liens, encumbrances, or other charges against the property hereinabove described, or otherwise fail to keep and perform any of Grantor's covenants herein contained, the performance of which requires the expenditure of money, then, in any such event, the Beneficiary, at its election, may pay such sums as may be necessary to perform such obligations with respect to which the Grantor is in default, without prejudice to Beneficiary's right to accelerate the maturity of this Deed of Trust and to foreclose the same, and any and all amounts so paid shall be repaid by the Grantor to the Beneficiary upon demand, with interest thereon at the highest rate then applicable to Grantor's indebtedness under the Agreement or other loan document from the date of such payment, and all such payments with interest as above provided, shall, from the date of payment, be added to and become a part of the indebtedness secured by this Deed of Trust.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion thereof as may be necessary to fully satisfy the obligations secured hereby, shall be paid to Beneficiary to be applied to said obligations.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

3. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligations secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

4. Upon the occurrence of an Event of Default as defined below, all sums secured hereby shall immediately become due and payable. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Laws of the State of Oregon, at public auction to the highest bidder. Trustee shall apply the proceeds of the sale as follows: (1) to the expenses of sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligations secured by this Deed of Trust; (3) To all persons having recorded liens subsequent to the interest of the Trustee and the Trust Deed as their interest may appear in the order of their priority; (4) A surplus, if any, to the Grantor of the Trust Deed or to the successor in interest of the grantor entitled to such surplus.

5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's Deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrances for value.

6. Reinstatement: the Grantor shall have the right to reinstate this Deed of Trust and have any proceedings begun by the Beneficiary to enforce this Deed of Trust discontinued at any time prior to the earlier to occur (1) the fifth day before the date of sale by the Trustee, or (2) the entry of a judgment Foreclosing this Deed of Trust. The conditions for reinstatement are that: (a) the Grantor pays off sums, which would then be due under the Agreement and this Deed of Trust had no acceleration occurred; (b) cure any default of Grantor's other obligations or agreements in this Deed of Trust; (c) pay all costs and expenses actually incurred by Bank Beneficiary in enforcing this Deed of Trust, including, but not limited to reasonable trustee's fees and attorney's fees, to the extent permitted by applicable law. Upon reinstatement this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, the reinstatement right shall not apply in the case of acceleration resulting from the sale or transfer of Grantor's property.

7. The power of sale conferred by this Deed of Trust and by the Trust Deed Statutes of the State of Oregon is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

8. In the event of the death, incapacity or disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

9. Each of the following, at the option of Beneficiary, shall constitute an event of default ("Event of Default") under this Deed of Trust: (a) Grantor commits fraud or makes a material misrepresentation at any time in connection with the credit line account. This can include, for example, a false statement about Grantor's income, assets, liabilities, or any other aspects of Grantor's financial condition, (b) Grantor does not meet the repayment terms of the credit line account, (c) Grantor's action or inaction adversely affects the collateral for the credit line account or Beneficiary's rights in the collateral. This can include, for example, failure to maintain required insurance, waste or destructive use of the dwelling, failure to pay taxes, death of all persons liable on the account, transfer of title or sale of the dwelling, creation of a lien on the dwelling without our permission, foreclosure by the holder of another lien, or the use of funds or the dwelling for prohibited purposes.

10. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, successors and assigns. The term Beneficiary shall mean the holder and owner of the Agreement or other evidence of indebtedness secured hereby, whether or not named as Beneficiary herein.

11. Applicable Law. This Deed of Trust has been delivered to Beneficiary and accepted by Beneficiary in the State of Oregon. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Oregon.

12. Any Grantor who is not a borrower under the Agreement shall not be personally liable for the obligations under the Agreement and is only signing this Deed of Trust to grant and convey your interest in the real property identified herein and agrees that Beneficiary and any borrower under the Agreement may extend, modify, forebear, or make any other arrangements relating to the Agreement or Deed of Trust without your consent and without releasing you from this Deed of Trust, its extension or modification.

13. To the fullest extent permitted by law Grantor waives any right to plead any statute of limitations as a defense to any obligation secured hereby and Grantor releases and waives all rights and benefits of the homestead exemption laws of the State where the property is located.

THIS INSTRUMENT WILL NOT ALLOW FOR THE USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Herbert C. Wagner
HERBERT C. WAGNER

Joyce M. Wagner
JOYCE M. WAGNER

ACKNOWLEDGMENT BY INDIVIDUAL
STATE OF OREGON

County of KLAMATH)
: ss.

I certify that I know or have satisfactory evidence that HERBERT C. WAGNER and JOYCE M. WAGNER

_____ is/are the individual(s) who signed this instrument in my presence and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 12-11-03


Margi Anderson
(NOTARY PUBLIC FOR THE STATE OF OREGON)
My appointment expires 10-19-04

REQUEST FOR RECONVEYANCE

To Trustee:
The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Dated: _____

Send Reconveyance to:

ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
STATE OF OREGON

County of _____)
: ss.

I certify that I know or have satisfactory evidence that _____
and _____ signed this instrument in
my presence, on oath stated that (he/she/they) was/were authorized to execute the instrument and acknowledged it as the
_____ of _____
(TITLE) (ENTITY)
to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(NOTARY PUBLIC FOR THE STATE OF OREGON)
My appointment expires _____

EXHIBIT "A"

93318

A PARCEL OF LAND SITUATE IN LOTS 9 AND 10, BLOCK 2, RESUBDIVISION OF TRACTS 2B AND 3 HOMEDALE, IN THE COUNTY OF KLAMATH, STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 9, BLOCK 2; THENCE SOUTH 0 DEGREES 20' WEST ALONG THE WESTERLY LINE OF LOTS 9 AND 10, BLOCK 2, 130 FEET, TO A POINT; THENCE SOUTH 49 DEGREES 29' EAST A DISTANCE OF 233.4 FEET, TO A POINT; THENCE NORTH 29 DEGREES 02' EAST A DISTANCE OF 108 FEET, MORE OR LESS TO A POINT ON THE NORTHEASTERLY SIDE OF LOT 9, BLOCK 2; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY SIDE OF LOT 9, BLOCK 2, A DISTANCE OF 295.8 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. EXCEPTING THEREFROM A TRACT OF LAND SITUATED IN LOT 9, BLOCK 2, OF THE SUBDIVISION OF BLOCK 2B AND 3, HOMEDALE, IN THE COUNTY OF KLAMATH, STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A 1 INCH IRON PIPE MARKING THE NORTHWESTERLY CORNER OF SAID LOT 9, SAID POINT BEING ON THE EASTERLY RIGHT OF WAY LINE OF HOMEDALE ROAD; THENCE SOUTH 50 DEGREES 44' EAST ALONG THE NORTHERLY LINE OF SAID LOT 9 54.69 FEET TO A 1/2 INCH IRON PIN; THENCE NORTH 76 DEGREES 18' WEST 43.72 FEET TO A 1/2 INCH IRON PIN ON THE EASTERLY RIGHT OF WAY LINE OF SAID HOMEDALE ROAD; THENCE NORTH 00 DEGREES 20' EAST ALONG SAID RIGHT OF WAY 24.25 FEET TO THE POINT OF BEGINNING, BASED ON HOMEDALE ROAD BEARING NORTH 00 DEGREES 20' EAST.