

104 JAN 30 AM 10:51

WJC - 61050

Vol M04 Page 05778

**RECORDING COVER SHEET  
FOR NOTICE OF SALE PROOF  
OF COMPLIANCE, PER ORS 205.234**

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON  
PRESENTING THE ATTACHED INSTRUMENT FOR  
RECORDING. ANY ERRORS IN THIS COVER SHEET  
DO NOT AFFECT THE TRANSACTION(S) CONTAINED  
IN THE INSTRUMENT ITSELF.

State of Oregon, County of Klamath  
Recorded 01/30/2004 10:51 a m  
Vol M04 Pg 5778-83  
Linda Smith, County Clerk  
Fee \$ 56.00 # of Pgs 6

**AFTER RECORDING RETURN TO:**

Michael P. Rudd  
411 Pine Street  
Klamath Falls, or 97601

MARK NAME(S) OF ALL THE TRANSACTION(S) described in the attached instrument. Fill in the Original Grantor on Trust Deed and the Beneficiary as indicated. Each Affidavit of Mailing Notice of Sale or Affidavit of Publication Notice of Sale or Proof of Service will be considered a transaction.

**AFFIDAVIT OF MAILING NOTICE OF SALE (must have trustee's notice of sale attached)**

**AFFIDAVIT OF PUBLICATION NOTICE OF SALE**

**PROOF OF SERVICE**

**Original grantor on Trust Deed:**

**Robert J. McElley and Elizabeth Irene McElley**

**Beneficiary**

**Bernard L. Simonsen and Rhea Ellen Simonsen**

460  
7:020 AM

RETURN TO:  
Brandsness, Brandsness, Rudd & Bunch, P.C.  
411 Pine Street  
Klamath Falls, OR 97601

**AFFIDAVIT OF MAILING NOTICE OF SALE TO GRANTOR,  
SUCCESSOR IN INTEREST TO GRANTOR AND PERSON REQUESTING NOTICE**

STATE OF OREGON )  
 ) ss:  
County of Klamath )

I, William P. Brandsness, 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 Oregon, a competent person over the age of eighteen years and not the beneficiary or his successor in interest named in the attached original notice of sale given under the terms of that certain trust 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:

Robert J. McElley  
8950 Booth Road  
Klamath Falls, OR 97603

Elizabeth I. McElley  
8950 Booth Road  
Klamath Falls, OR 97603

Geno's Country Store, Inc.  
c/o H. Ray Pepper, Registered Agent  
Two Annabel Lane, Suite 200  
San Ramon, CA 94583

Kenneth E. Anderson  
Harrington, Anderson & DeBlasio  
P. O. Box 12669  
Portland, OR 97212-0669

Area Director  
Technical Services  
915 Second Avenue, Mail Stop W245  
Seattle, WA 98174

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) and any person, including the Department of Revenue or an 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.

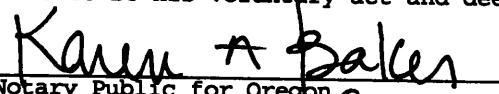
Each of the notices so mailed was certified to be a true copy of the original notice of sale by the trustee Michael P. Rudd; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States post office at Klamath Falls, Oregon, on September 24, 2003. 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.

  
William P. Brandsness

STATE OF OREGON )  
 ) ss.  
County of Klamath )

Personally appeared before me this 24 day of September, 2003, William P. Brandsness and acknowledged the foregoing instrument to be his voluntary act and deed.

  
Notary Public for Oregon  
My Commission expires: 9.20.05



**WE ARE ATTEMPTING TO COLLECT A DEBT.  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

**TRUSTEE'S NOTICE OF DEFAULT  
AND ELECTION TO SELL AND OF SALE**

Reference is made to a certain trust deed ("Trust Deed") made, as follows:

Robert J. McElley and Elizabeth Irene McElley, Grantor; Aspen Title & Escrow, Inc., Trustee; and Bernard L. Simonsen and Rhea Ellen Simonsen, Beneficiary, recorded in Official/Microfilm Records, Volume M97, Page 38213, Klamath County, Oregon, covering the following-described real property in Klamath County, Oregon, commonly known as 8838 Highway 140 East, Klamath Falls, Oregon 97603 ("Property"):

Parcels 1 and 3 of land partition 65-93 situated in the NE 1/4 SE 1/4 and the SE 1/4 NE 1/4 of Section 7, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

The defaults for which foreclosure is made is grantor's failure to pay when due the following sums:

Failed to pay principal and interest in full on December 1, 2002, as provided in the Installment Note; failed to pay Klamath County Real Property Taxes.

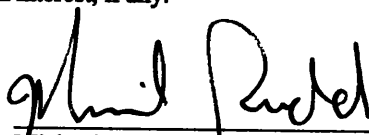
By reason of said defaults, the beneficiary has declared all sums owing on the obligations secured by said Trust Deed immediately due and payable, said sums being the following, to-wit:

\$153,899.20 plus interest at the rate of 8.5% per annum from January 22, 2001, until paid; Klamath County Real Property Taxes in the amount of \$3,430.55, plus trustee's fees, attorney's fees, foreclosure costs and any sums advanced by beneficiary pursuant to the terms of said trust deed.

WHEREFORE, notice hereby is given that the undersigned trustee will, on February 10, 2004, at the hour of 10:00 o'clock a.m. o'clock a.m., in accord with the standard of time established by ORS 187.110, at the following place: Offices of Brandsness, Brandsness, Rudd & Bunch, P.C., 411 Pine Street, Klamath Falls, Oregon, sell at public auction to the highest bidder for cash the interest in the above-described Property, which the grantor had or had power to convey at the time of the execution by grantor of the said Trust Deed, together with any interest which the grantor or grantor's successors in interest acquired after the execution of the Trust Deed, to satisfy the 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 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 sum 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 ORS 86.753.

In construing this notice, the singular includes the plural, the word "grantor" includes each and every grantor, any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said Deeds of Trust, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Dated: September 22, 2003.



Michael P. Rudd, Successor Trustee  
411 Pine Street  
Klamath Falls, OR 97601

STATE OF OREGON                    )  
  ) ss.  
County of Klamath                    )

I, the undersigned, certify that the foregoing is a complete and exact copy of the original Trustee's Notice of Sale.

\_\_\_\_\_  
Michael P. Rudd, Trustee

RETURN TO:  
Brandsness, Brandsness, Rudd & Bunch, P.C.  
411 Pine Street  
Klamath Falls, OR 97601

**TRUSTEE'S AFFIDAVIT AS TO NON-OCCUPANCY**

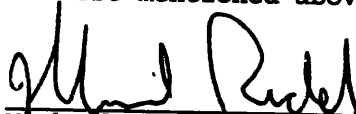
STATE OF OREGON            )  
                                  ) ss.  
County of Klamath         )

I, Michael P. Rudd, being first duly sworn, depose, say and certify that:

I am the successor trustee in that certain trust deed executed and delivered by Robert J. McElley and Elizabeth Irene McElley as grantor to Aspen Title & Escrow, Inc. as trustee in which Bernard L. Simonsen and Rhea Ellen Simonsen is beneficiary, recorded on November 21, 1999 in the mortgage records of Klamath, Oregon, in book/volume No. M97 at page 38213.

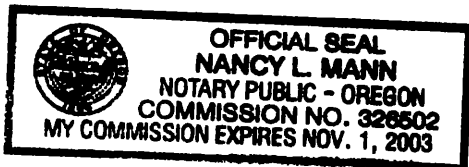
I hereby certify that on September 22, 2003, the real property described in the afore-mentioned trust deed was not occupied.

The word "trustee" as used in this affidavit means any successor trustee to the trustee named in the trust deed first mentioned above.

  
\_\_\_\_\_  
Michael P. Rudd

STATE OF OREGON         )  
                              ) ss.  
County of Klamath     )

Personally appeared before me this 23 day of September, 2003, Michael P. Rudd and acknowledged the foregoing instrument to be his voluntary act and deed.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires: 11-1-03

Affidavit of Publication

05782

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 # 6262

Trustee's Notice of Default

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

(4) dg
Four dg

Insertion(s) in the following issues:

November 28, 2003 dg
December 5, 12, 19 2003 dg

Total Cost: \$702.00 dg

Subscribed and sworn before me on: January 27, 2004

Debra A. Shible
Notary Public of Oregon

My commission expires March 15, 2004

TRUSTEE'S NOTICE OF DEFAULT AND ELECTION TO SELL AND OF SALE

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WHEREFORE, notice hereby is given that the undersigned trustee will, on February 10, 2004, at the hour of 10:00 o'clock a.m., in accord with the standard of time established by ORS 187.110, at the following place: Offices of Brandsness, Brandsness, Rudd & Bunch, P.C., 411 Pine Street, Klamath Falls, Oregon, sell at public auction to the highest bidder for cash the interest in the above-described Property, which the grantor had or had power to convey at the time of the execution by grantor of the said Trust Deed, together with any interest which the grantor or grantor's successors in interest acquired after the execution of the Trust Deed, to satisfy the 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 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 sum 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 ORS 86.753.

In construing this notice, the singular includes the plural, the word "grantor" includes each and every grantor, any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said Deeds of Trust, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Dated: September 22, 2003.

/s/Michael P. Rudd, Successor Trustee

411 Pine Street Klamath Falls, OR 97601 STATE OF

OREGON )  
ss.)  
County of Klamath)  
I, the undersigned,  
certify that the fore-  
going is a complete  
and exact copy of  
the original Trust-  
ee's Notice of Sale.

/s/Michael P. Rudd,  
Successor Trustee.  
#6262 November 28,  
December 5, 12, 19,  
2003.

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