

04 SEP 27 AM 11:39

Klamath

**FIRST AMERICAN TITLE - OR (NEW)**

Vol M04 Page 64664

2329152 / 409547<sup>1st</sup>

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

**State of Oregon, County of Klamath**  
Recorded 09/27/04 11:39 a m  
Vol M04 Pg 64664-72  
Linda Smith, County Clerk  
Fee \$ 76<sup>00</sup> # of Pgs 9

**AFTER RECORDING RETURN TO:  
ELVIRA PEREZ 98-5330  
FIRST AMERICAN TITLE - OR (NEW)  
400 COUNTRYWIDE WAY SV-35  
SIMI VALLEY, CA 93065**

TS No.: **04 -07615**  
Doc ID #000328472892005N

1. AFFIDAVIT OF MAILING NOTICE OF SALE
- ✓2. AFFIDAVIT OF PUBLICATION NOTICE OF SALE
- ✓3. AFFIDAVIT OF SERVICE
- ✓4. COPY OF NOTICE OF SALE

Original Grantor on Trust Deed: **HEIDI L MALBY and RAYMOND G MALBY**

Beneficiary: **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC.,**

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

6/1  
+15 F

# AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

STATE OF CALIFORNIA, COUNTY OF VENTURA) ss:

I, the undersigned, 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 California, a competent person over the age of eighteen years and not the beneficiary or the beneficiary's 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 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 address, to-wit:

**See attached Exhibit A for all the mailing address(es).**

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 First American 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 VENTURA, CALIFORNIA, on 7-2-2004. 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 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.

Subscribed and sworn to before me on 7/9, 2004, by Chantal Mekhjian

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

RE: Trust Deed from

Grantor

HEIDI L MALBY and RAYMOND G MALBY

Notary Public for California

Residing at CA

My commission expires: 5/2/08

First American Title Insurance Company

Trustee TS No. 04-07615

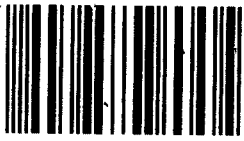
After Recording return to:

400 COUNTRYWIDE WAY SV-35

First American Title Insurance Company

SIMI VALLEY, CA 93065





64666

**AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE  
"EXHIBIT A"**

**TS No. 04-07615**

HEIDI L MALBY  
27830 PETERSTEINER RD  
BONANZA, OR 97623  
7187 7930 3131 0397 7956

RAYMOND G MALBY  
27830 PETERSTEINER RD  
BONANZA, OR 97623  
7187 7930 3131 0397 7970

HEIDI L MALBY  
27830 PETERSTEINER ROAD  
BONANZA, OR 97623  
7187 7930 3131 0397 7963

RAYMOND G MALBY  
27830 PETERSTEINER ROAD  
BONANZA, OR 97623  
7187 7930 3131 0397 7987

# Affidavit of Publication

64667

## STATE OF OREGON, COUNTY OF KLAMATH

I, Jeanine P. Day, 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 I know from my personal knowledge that the

Legal # 6892

Notice of Sale/Malby

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

Four

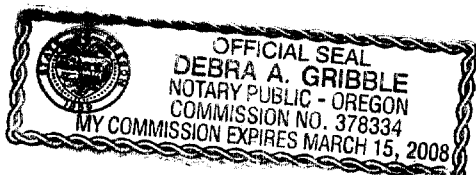
Insertion(s) in the following issues:  
August 12, 19, 26, September 2, 2004

Total Cost: \$1,106.00

subscribed and sworn  
before me on: September 2, 2004

Notary Public of Oregon

My commission expires March 15, 2008



### TRUSTEE'S NOTICE OF SALE

Reference is made to that certain Trust Deed made by Raymond G. Malby, And Heidi L. Malby, As Tenants By The Entirety, as grantor(s), to Fidelity National Title Insurance, as Trustee, in favor of Mortgage Electronic Registration Systems, Inc., as Beneficiary, dated 08/18/2003, recorded 08/22/2003, in the mortgage records of Klamath County, Oregon in Book/Reel/Volume No. M03 at Page No. 61847 as Recorder's fee/file/instrument/microfilm/reception Number VOLM03PG61847, covering the following described real property situated in said county and state, to wit:

### EXHIBIT "A" Legal Description

A tract of land situated in the NE 1/4 NE 1/4 of Section 31, Township 37 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, being Parcel 1 of Major Partition No. 54-82, more particularly described as follows:

Beginning at the E 1/16 corner common to Section 30 and 31 of said township and range; thence South 89 degrees 59' 16" East, along the North line of said Section 31, also being along the Southern boundary of Block 2, of Yonna Woods - Tract 1009, a duly recorded subdivision, 346.17 feet to the Southeast corner of Lot 11, Block 2 of said Tract 1009; thence South 00 degrees 34' 53" East, parallel to the West line of said NE 1/4 NE 1/4, 629.17 feet; thence North 89 de-

grees 59' 16" West 346.17 feet to said West Line; thence North 00 degrees 34' 53" WEST 629.17 feet to the point of beginning, with hearings based on said tract 1009 (also being the bearings of said Partition No 54-82.

TOGETHER WITH an easement 30 feet in width for ingress and egress across Lot 11, Block 2 of Tract 1009 YONNA WOODS, Klamath County, Oregon, as shown on Major Partition 54-82 and as created by Contract dated August 20, 1976, recorded September 9, 1976 in Volume M76, Page 14136, Microfilm Records of Klamath County, Oregon, the centerline of said easement being described as follows.

Beginning at a point on the South right of way line of Rockwell Drive, said point being on the North line of Lot 11, Block 2 of TRACT 1009 YONNA WOODS, according to the official plat thereof, from which the Northeast corner of said Lot 11 bears East 150.00 feet; thence South 11 degrees 32' 28" West 642.27 feet to a point on the South line of said Lot 11 from which the Southeast corner of said Lot 11 bears South 89 degrees 59' 16" East 270.50 feet; with the sidelines of said strip to be lengthened or shortened to terminate at the South right of way line of Rockwell Drive and the South line of Lot 11; with hearings based on TRACT 1009 YONNA WOODS:

PROPERTY ADDRESS: 27830 Petersteiner Road, Bonanza, OR 97623.

Both the Beneficiary

and the Trustee have elected to sell the real property to satisfy the obligations secured by the 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: monthly payments of \$768.30 beginning 03/01/2004; plus late charges of \$38.42 each month beginning with the 13/01/2004 payment plus prior accrued late charges of \$211.31; plus advances of \$0.00; together with title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the Beneficiary for the protection of the above described real property and its interest therein.

By reason of said default the Beneficiary has declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, said sums being the following to wit: \$68,932.86 with interest thereon at the rate of 5.375 percent per annum beginning 02/01/2004 until paid, plus all accrued late charges thereon together with title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the Beneficiary for the protection of the above described real property and its interests therein.

WHEREFORE, notice hereby is given that, FIRST AMER-

FIRST AMERICAN TITLE INSURANCE COMPANY, the undersigned Trustee will on Thursday, November 4, 2004 at the hour of 10:00 AM in accord with the standard of time established by ORS 187.110 at the following place: inside the 1st floor lobby of the Klamath County Courthouse, 316 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 the described real property which the grantor had or had power to convey at the time of the execution by grantor of the 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 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 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 the Trustee's and Attorney's fees not exceeding the amounts provided by OSRS 86.753

In construing this notice, 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: June 23, 2004. Maria Delatorre, Asst. Sec. First American Title Insurance Company. For further information, please contact: First American Title Insurance Company, C/O CTC Real Estate Services, 5898 Condor Drive, MP-88, Moorpark, CA 93021. (800) 281-8219. TS No. 04-07615. Doc. ID #000328472892005N. #6892 August 12, 19, 26, September 2, 2004.

IN THE \_\_\_\_\_ COURT OF THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ : COURT CASE NO. \_\_\_\_\_

OREGON

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC

64669

vs  
RAYMOND G MALBY AND  
HEIDI L MALBY

**PROOF OF SERVICE**

STATE OF OREGON )  
County of \_\_\_\_\_ ) SS.  
KLAMATH

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_  
I served \_\_\_\_\_ by

XX

Personal Service (personally and in person)

Substitute Service (by serving a person over the age of 14 years, who resides at the usual place of abode of the within named)

Office Service (by serving the person apparently in charge)

By posting (said residence)

A certified/true copy of:

Summons

Motion

Complaint

Petition

Other: TRUSTEES NOTICE OF SALE

Writ of Garnishment

Order

Citation

Notice

Small Claims

Affidavit

Subpoena

Decree

Together with a copy of \_\_\_\_\_

To SHERI HUDSON At 27830 PETERSTEINER RD  
BONANZA, OR 97623

NOT FOUND: I certify that I received the within document for service on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
and after due and diligent search and inquiry, I have been unable to locate  
within the county of \_\_\_\_\_ Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

ALL SEARCH AND SERVICE WAS MADE WITHIN THE COUNTY OF KLAMATH

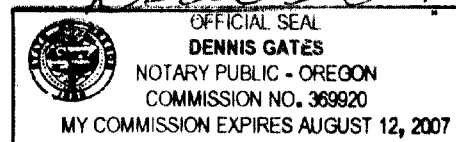
I am a competent person over the age of 18, a resident of said State, not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise and knew that the person, firm or corporation served is the identical one named in the action.

Subscribed to and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

DAVE DAVIS (#16)

Cleveland Legal Support Service  
(541) 665-5162



Papers Received From FEI LLC  
PO BOX 219  
BELLEVUE  
WA 98009-0219

425-458-2112  
ATTN: IRENE X 1944

Remit to: CLSS, Inc.	Service Fee	\$
P.O. Box 5358	Mileage	\$
Central Point, OR 97502	Rush/Emergency	\$
Date: 07-07-2004	Incorrect Add.	\$
CLSS File No. 3624-K		\$
Client No.	Amount Paid	\$ 0.00
1000.08434	TOTAL DUE	\$

2329152

64670

**TRUSTEE'S NOTICE OF SALE**

Reference is made to that certain Trust Deed made by Raymond G Malby, And Heidi L Malby, As Tenants By The Entirety, as grantor(s), to Fidelity National Title Insurance, as Trustee, in favor of Mortgage Electronic Registration Systems Inc., as Beneficiary, dated 08/18/2003, recorded 08/22/2003, in the mortgage records of Klamath County, Oregon, in Book/Reel/Volume No. M03 at Page No. 61847 as Recorder's fee/file/instrument/microfilm/reception Number VOLM03PG61847, covering the following described real property situated in said county and state, to wit:

SEE ATTACHED

PROPERTY ADDRESS: 27830 PETERSTEINER ROAD  
BONANZA, OR 97623

Both the Beneficiary and the Trustee have elected to sell the real property to satisfy the obligations secured by the 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: monthly payments of \$768.30 beginning 03/01/2004; plus late charges of \$38.42 each month beginning with the 03/01/2004 payment plus prior accrued late charges of \$211.31; plus advances of \$0.00; together with title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the Beneficiary for the protection of the above described real property and its interest therein.

By reason of said default the Beneficiary has declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, said sums being the following to wit: \$68,932.86 with interest thereon at the rate of 5.375 percent per annum beginning 02/01/2004 until paid, plus all accrued late charges thereon together with title expense, costs, trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the Beneficiary for the protection of the above described real property and its interests therein.

WHEREFORE, notice hereby is given that, FIRST AMERICAN TITLE INSURANCE COMPANY, the undersigned Trustee will on Thursday, November 04, 2004 at the hour of 10:00 AM in accord with the standard of time established by ORS 187.110, at the following place: inside the 1st floor lobby of the Klamath County Courthouse, 316 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 the described real property which the grantor had or had power to convey at the time of the execution by grantor of the 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 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 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 the Trustee's and attorney's fees not exceeding the amounts provided by OSRS 86.753.

In construing this notice, 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.

**MARIA DELATORRE, ASST SEC**Dated 11/23/04, 2004  
FIRST AMERICAN TITLE INSURANCE COMPANY

CTC Form ORNOS (03/02)

64671

For further information, please contact:

**FIRST AMERICAN TITLE INSURANCE COMPANY**  
**C/O CTC REAL ESTATE SERVICES**  
**5898 CONDOR DRIVE, MP-88**  
**MOORPARK, CA 93021**  
**(800)-281-8219**  
**TS No. 04 -07615**  
**Doc ID #000328472892005N**

STATE OF CA )  
COUNTY OF Orange ) ss.

On 4/23/04, before me, **MARISA HERRERA**, personally appeared **MARIA DELATORRE**, 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]  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_



**THIS IS AN ATTEMPT TO COLLECT A DEBT AND INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. HOWEVER IF YOU HAVE OR ARE IN THE PROCESS OF OBTAINING DISCHARGE OF THE DEBT FROM A BANKRUPTCY COURT, THIS DOCUMENT IS NOT AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF LIEN RIGHTS AGAINST THE PROPERTY.**



**Exhibit "A"**

Real property in the County of Klamath, State of Oregon, described as follows:

A tract of land situated in the NE1/4 NE1/4 of Section 31, Township 37 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, being Parcel 1 of Major Partition No. 54-82, more particularly described as follows:

Beginning at the E1/16th corner common to Section 30 and 31 of said township and range; thence South 89° 59' 16" East, along the North line of said Section 31, also being along the Southerly boundary of Block 2, of Yonna Woods-Tract 1009, a duly recorded subdivision, 346.17 feet to the Southeast corner of Lot 11, Block 2 of said Tract 1009; thence South 00° 34' 53" East, parallel to the West line of said NE1/4, 629.17 feet; thence North 89° 59' 16" West 346.17 feet to said West line; thence North 00° 34' 53" West 629.17 feet to the point of beginning, with bearings based on said Tract 1009 (also being the bearings of said Partition No. 54-82).

TOGETHER WITH an easement 30 feet in width for ingress and egress across Lot 11, Block 2 of Tract 1009 Yonna Woods, Klamath County, Oregon, as shown on Major Partition 54-82 and as created by Contract dated August 20, 1976, recorded September 9, 1976, in Volume M76 Page 14136, records of Klamath County, Oregon, the centerline of said easement being described as follows:

Beginning at a point on the South right of way line of Rockwell Drive, said point being on the North line of Lot 11, Block 2 of TRACT 1009 YONNA WOODS, according to the official plat thereof, from which the Northeast corner of said Lot 11 bears East 150.00 feet; thence South 11° 32' 28" West 642.27 feet to a point on the South line of said Lot 11 from which the Southeast corner of said Lot 11 bears South 89° 59' 16" East 270.50 feet; with the sidelines of said strip to be lengthened or shortened to terminate at the South right of way line of Rockwell Drive and the South line of Lot 11; with bearings based on TRACT 1009 YONNA WOODS.