

MTZ-71384

After recording return to:

Carter M. Mann, Esq.
Successor Trustee
Foster Pepper Tooze LLP
601 SW Second Ave., Suite 1800
Portland, OR 97204-3171

M05-63899

Klamath County, Oregon
09/09/2005 02:45:45 PM
Pages 2 Fee: \$26.00

AMENDED NOTICE OF DEFAULT AND ELECTION TO SELL

Reference is made to that certain trust deed made by **Billy G. Smith**, as Grantor, to **Glenn H. Prohaska**, as Trustee, in favor of **Conseco Bank, Inc.**, as Beneficiary, dated August 19, 1999, recorded August 25, 1999, in the microfilm records of Klamath County, Oregon, in Volume M99, Page 34315 ("Trust Deed"). The beneficial interest in the trust deed was assigned by Conseco Bank, Inc. to Green Tree Financial Servicing Corporation, by Assignment dated August 18, 1999, and recorded August 25, 1999, in Volume M99, Page 34322, microfilm records of Klamath County, Oregon. The Trust Deed covers the following described real property situated in the above county and state, to-wit:

NW ¼ of the NW ¼ of the SW ¼ of Section 7, Township 40 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, SAVING AND EXCEPTING THEREFROM the Easterly 30 feet thereof conveyed to Klamath County in Deed recorded July 24, 1979 in Volume M79, page 17530, Microfilm Records of Klamath County, Oregon.

The real property is also known as: 13570 Whispering Pines Drive, Keno, Klamath County, Oregon (the "Collateral Property").

The undersigned hereby certifies that no assignments of the Trust Deed by the Trustee or by the Beneficiary and no appointments of a successor-trustee have been made except as recorded in the mortgage records of the county or counties in which the Collateral Property is situated; further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the Trust Deed, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 86.735(4).

There is a default by the Grantor or other person owing an obligation, the performance of which is secured by the Trust Deed, or by their successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision; the default for which foreclosure is made is Grantor's failure to pay when due the sum listed below.

By reason of the default, the Beneficiary has declared all sums owing on the obligation secured by the trust deed immediately due and payable, the sums being the following, to-wit:

\$159,152.56; plus interest thereon at the rate of 11 percent from November 21, 2002 until paid; plus late charges at the rate of \$143.98 per month, plus any additional advances, unpaid real property taxes; plus any reserve account shortage; less any unapplied funds; plus all sums expended by beneficiary to protect its interest during the pendency of this proceeding.

Notice is hereby given that the Beneficiary and Trustee, by reason of the default, have elected and do hereby elect to foreclose the Trust Deed by advertisement and sale pursuant to ORS 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the Collateral Property which the Grantor had or had the power to convey at the time of the execution by Grantor of the Trust Deed, together with any interest the Grantor or Grantor's successors in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by the Trust Deed and the expenses of the sale, including the compensation of the Trustee as provided by law, and the reasonable fees of Trustee's attorneys.

The sale will be held at the hour of **10:00 A.M.**, in accord with the standard of time established by ORS 187.110 on **January 19, 2006**, at the front entrance of the Klamath County Courthouse in the City of Klamath Falls, 316 Main Street, County of Klamath, State of Oregon, which is the hour, date and place last set for the sale.

Other than as shown of record, neither the Beneficiary nor the Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the Collateral Property described subsequent to the interest of the Trustee in the Trust Deed, or of any successor in interest to the Grantor of any lessee or other person in possession of or occupying the Collateral Property, except:

2600

NAME AND LAST KNOWN ADDRESS

NATURE OF RIGHT, LIEN OR INTEREST

Billy G. Smith
7315 Homedale Rd.
Klamath Falls, OR 97603-9396

Grantor

Annette Marie Smith
9709 Ben Kerns Rd.
Klamath Falls, OR 97601-9073

Judgment Lienholder

Karen M. Oakes, Esq.
Law Ofc of Karen Oakes
120 S 9th St
Klamath Falls OR 97601-6174

Counsel to Annette Smith

State of Oregon
Department of Forestry
Michael W Grant
Assistant Attorney General
1162 Court St. NE
Salem OR 97301-4095

Counsel for State of Oregon, Dept. of Forestry

Jeff Hudson
Stephanie Hudson
609 Lytton St.
Klamath Falls, OR 97601-1722

Deed Interest

Michael P. Rudd, Esq.
Brandsness Brandsness Rudd & Bunch
411 Pine Street
Klamath Falls, OR 97601-6063

Counsel for Hudsons

Boyd C. Yaden
13640 SE Highway 212, Unit 103
Clackamas, OR 97015-8511

Trust Deed Beneficiary

Occupants

Right of Tenancy

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 the above 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 ORS 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 the trust Deed, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

DATED: September 2nd, 2005.


Carter M. Mann, Successor Trustee

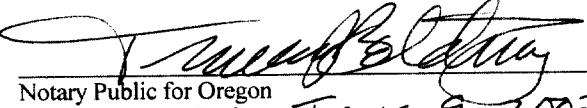
STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on the 2nd day of September, 2005, by Carter M. Mann.




Notary Public for Oregon

My Commission Expires: JUNE 9, 2007

PLEASE CONTACT LILLIAN ERWIN, PARALEGAL, AT 503/221-5377 WITH ANY QUESTIONS CONCERNING THIS FORECLOSURE.