

MTC-71384

M06-00508

Klamath County, Oregon

01/10/2006 02:57:14 PM

Pages 7 Fee: \$51.00

After recording return to:

Carter M. Mann, Esq.
Successor Trustee
Foster, Pepper Tooze LLP
601 SW 2nd Avenue, Suite 1800
Portland, OR 97204

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

STATE OF OREGON)
) ss.
County of Multnomah)

I, LILLIAN ERWIN, 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 Oregon, a competent person over the age of eighteen years and not the beneficiary or beneficiary's successor in interest named in the attached original notice of sale given under the terms of that certain 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 real property described in the attached 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:

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

51.00

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

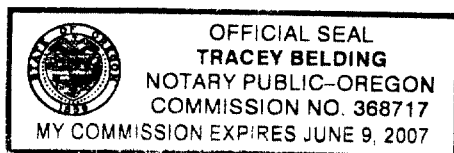
The above persons include (a) the grantor in the trust deed, (b) any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice, (c) any person, including the Department of Revenue or any other state agency, having a lien or interest subsequent to the trust deed if the lien or interest appears of record of 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 Carter M. Mann, attorney for the trustee named in the 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 Portland, Oregon on August 9, 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 the notice(s) was/were mailed after the notice of default and election to sell described in the 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.


LILLIAN ERWIN

SUBSCRIBED AND SWORN to before me this 13th day of September, 2005.




Notary Public for Oregon
My Commission Expires: JUNE 9, 2007

TRUSTEE'S NOTICE OF SALE

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").

Both the Beneficiary and the Trustee have elected to sell the Collateral 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 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.

WHEREFORE, notice hereby is given that the undersigned Trustee will on **January 19, 2006, at the hour of 10:00 a.m.**, in accordance with the standard of time established by ORS 187.110 at the front entrance 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 above described Collateral 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 (5) 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 13, 2005.



CARTER M. MANN, Successor Trustee

STATE OF OREGON)
) ss.
County of Multnomah)

I, the undersigned, certify that I am the attorney or one of the attorneys for the above named Successor Trustee and that the foregoing is a complete and exact copy of the original Trustee's Notice of Sale.

FOSTER PEPPER TOOZE LLP

Attorney for Successor Trustee

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

If the foregoing is a copy to be served pursuant to ORS 86.740 or ORS 86.750(1), fill in opposite the name and address of party to be served.

SERVE: _____

94454-101/Smith

AFFIDAVIT OF NON-OCCUPANCY

STATE OF OREGON)
) ss.
County of Klamath)

I, Robert W. Bolenbaugh, being first duly sworn, depose and say:

That I am, and have been at all material times hereto, a competent person over the age of eighteen years and a resident of Klamath County, State of Oregon. I am not a party to, an attorney in, or interested in any suit of action involving the property described below.

That on the 17th day of September 2005, after personal inspection, I found the following described real property to be unoccupied:

SEE ATTACHED

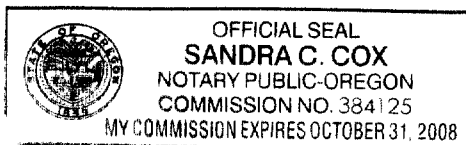
Commonly known as: 13570 Whispering Pines Drive
Keno, Oregon

I declare under the penalty of perjury that the above statements are true and correct.

Robert W. Bolenbaugh 304808

SUBSCRIBED AND SWORN to before me this 23rd day of September 2005, by Robert W. Bolenbaugh.

Notary Public for Oregon



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").

Affidavit of Publication

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 # 7979

Notice of Sale/Billy G. Smith

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:
December 9, 16, 23, 30, 2005

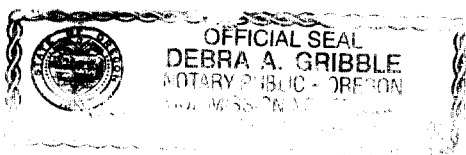
Total Cost: \$823.20

Jeanine P. Day
Subscribed and sworn

Before me on: December 30, 2005

Debra A. Gribble
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 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 1/4 of the NW 1/4 of the SW 1/4 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 the 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").

Both the Beneficiary and the Trustee have elected to sell the Collateral 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 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.

WHEREFORE, notice hereby is given that the undersigned Trustee will on January 19, 2006 at the hour of 10:00 a.m., in accordance with the standard of time established by ORS 187.110 at the front entrance 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 above described Collateral 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 86.735 has the right, at any time prior to five (5)

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 13, 2005. Carter M. Mann, Successor Trustee.

State of Oregon's County of Multnomah's. I, the undersigned, certify that I am the attorney or one of the attorneys for the above named Successor Trustee and that the foregoing is a complete and exact copy of the original Trustee's Notice of Sale. Foster Pepper Tooze LLP, Attorney for Successor Trustee. Please contact Lillian Erwin, Paralegal, at 503-211-5377 with any questions concerning this foreclosure.

#7979 December 9, 16, 23, 30, 2005.