

MT078553

After recording return to:
180 East 11th Avenue
Eugene, OR 97401

2007-016031

Klamath County, Oregon



00031160200700160310090096

09/12/2007 11:16:00 AM

Fee: \$61.00

AFFIDAVIT OF MAILING OF AMENDED NOTICE OF SALE

STATE OF OREGON)
) ss.
COUNTY OF LANE)

I, NANCY K. CARY, being first duly sworn, depose and say:

1. I am the Successor Trustee of the Trust Deed described in the attached Amended Trustee's Notice of Sale After Relief From Stay.

2. I served the attached Amended Trustee's Notice of Sale After Relief From Stay upon the following parties by depositing true copies thereof in the United States Mail at Eugene, Oregon, on September 10, 2007:

Glenn A. Leggett
15970 Old Mill Road
La Pine OR 97739

Brian D. Lynch
Trustee
1300 SW 5th #1700
Portland OR 97201

Kathleen I. Leggett
15970 Old Mill Road
La Pine OR 97739

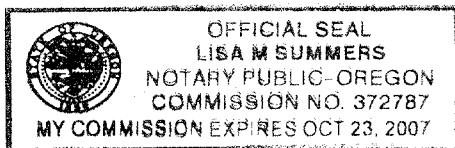
John Helmick
Gorilla Capital, Inc.
1400 High Street, Suite B-2
Eugene OR 97401

Jonathan G. Basham
Attorney at Law
2542 NE Courtney Dr. #200
Bend OR 97701

3. The above copies were enclosed in sealed envelopes addressed to the parties named above at the addresses set forth below their names which, to the best of my knowledge, were their last known addresses as of the date of mailing. The copies were mailed by certified mail, return receipt requested, with postage prepaid.

NANCY K. CARY

Signed and sworn to before me on September 10, 2007, by NANCY K. CARY.



Lisa M. Summers
Notary Public for Oregon
My Commission Expires: 10/23/2007

AFFIDAVIT OF MAILING OF AMENDED NOTICE OF SALE

6/AMT

The following Trustee's Notice of Sale is served on you by certified mail, return receipt requested pursuant to ORS Chapter 86, requiring notice of the foreclosure to be given to the grantor of the trust deed, to certain successors in interest of the grantor and junior lien holders, and to the occupants of the property.

TO:

AMENDED TRUSTEE'S NOTICE OF SALE AFTER RELIEF FROM STAY

The Trustee under the terms of the Trust Deed described herein, at the direction of the Beneficiary, hereby elects to sell the property described in the Trust Deed to satisfy the obligations secured thereby. Pursuant to ORS 86.745, the following information is provided:

1. PARTIES:
Grantor: GLENN A. LEGGETT
Trustee: AMERITITLE, INC.
Successor Trustee: NANCY K. CARY
Beneficiary: RODNEY A. DALTON, TRUSTEE FOR THE RODNEY A. DALTON PENSION TRUST
2. RECORDING. The Trust Deed was recorded as follows:
Date Recorded: May 31, 2006
Recording No. M06-11027
Official Records of Klamath County, Oregon
3. DESCRIPTION OF PROPERTY: The real property is described as follows:

As described on the attached Exhibit A
4. DEFAULT. The Grantor or any other person obligated on the Trust Deed and Promissory Note secured thereby is in default and the Beneficiary seeks to foreclose the Trust Deed for failure to pay: Monthly payments in the amount of \$149.88 each, due the 31st of each month, for the months of June 31, 2006 through August 31, 2007; plus late charges and advances; plus any unpaid real property taxes, plus interest.
5. AMOUNT DUE. The amount due on the Note which is secured by the Trust Deed referred to herein is: Principal balance in the amount of \$15,125.00; plus interest at the rate of 11.99% per annum from May 31, 2006; plus late charges of \$112.35; plus advances and foreclosure attorney fees and costs.
6. ELECTION TO SELL. The Trustee hereby elects to sell the property to satisfy the obligations secured by the Trust Deed. A Trustee's Notice of Default and Election to Sell Under Terms of Trust Deed has been recorded in the Official Records of Klamath County, Oregon.
7. The Notice of Default and original Notice of Sale stated that the sale would be held on July 19, 2007 at 11:00 a.m., at Klamath County Courthouse, 316 Main Street, Klamath Falls, Oregon. The original sale proceedings were stayed by order of the Bankruptcy Court and the stay was terminated on August 28, 2007.
8. TIME OF SALE.

Date: October 4, 2007
Time: 11:00 a.m.
Place: Klamath County Courthouse, 316 Main Street, Klamath Falls, Oregon
9. RIGHT TO REINSTATE. Any person named in ORS 86.753 has the right, at any time prior to five days before the Trustee conducts the sale, to have this foreclosure 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, by curing any other default that is capable of being cured by tendering the performance required under the obligation or Trust Deed and 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 amount provided in ORS 86.753.

Any questions regarding this matter should be directed to Lisa Summers, Legal Assistant, (541) 686-0344.

DATED: September 10, 2007.

/s/ Nancy K. Cary

NANCY K. CARY, Successor Trustee
HERSHNER HUNTER, LLP
P.O. Box 1475
Eugene, OR 97440

FAIR DEBT COLLECTION
PRACTICES ACT NOTICE

This communication is from a debt collector.

Unofficial
Copy

EXHIBIT "A"
LEGAL DESCRIPTION

Beginning at a point on the Easterly right-of-way line of The Dalles-California Highway, which point bears South along the Section line 1667.8 feet and East 491.6 feet from the Section corner common to Sections 17, 18, 19 and 20, Township 28 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North $16^{\circ} 53' 30''$ East parallel to the Highway, 200 feet to the point of beginning; thence South $73^{\circ} 06' 30''$ East a distance of 150 feet; thence North $16^{\circ} 53' 30''$ East parallel to the Highway, 50 feet; thence North $73^{\circ} 06' 30''$ West 150 feet; thence South $16^{\circ} 53' 30''$ West along the Easterly right of way of said highway a distance of 50 feet to the point of beginning, being a portion of the W1/2 NW1/4 of Section 20, Township 28 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING THEREFROM that portion of said premises conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated June 21, 1954, recorded June 25, 1954 in Book 267, page 484, Deed Records of Klamath County, Oregon.

Tax Account No: 2808-020B0-03400-000

Key No: 88559

August 28, 2007

Clerk, U.S. Bankruptcy Court

Below is an Order of the Court.


ELIZABETH PERRIS
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re
Glenn Albert Leggett and
Kathleen Inga Leggett

) Case No. 07-32626-elp13
)
) ORDER, DRAFTED ON: 08/22/07
) RE: RELIEF FROM (Check ALL that apply):
) ☒ DEBTOR STAY ☒ CODEBTOR STAY
) CREDITOR: Rodney A. Dalton, Trustee*
) CODEBTOR: Kathleen Inga Leggett

Debtor(s)

The undersigned, Nancy K. Cary, whose address is 180 E. 11th Avenue
Eugene, OR 97401, Email address is ncary@hershnerhunter.com
Phone No. is (541) 686-8511, and any OSB # is 90225, presents this Order based upon:

- ☐ The completed Stipulation of the parties located at the end of this document.
☐ The oral stipulation of the parties at the hearing held on _____.
☐ The ruling of the court at the hearing held on _____.
☐ Creditor certifies any default notice required by pt. 5 of the Order re: Relief from Stay entered on _____ was served, and that debtor has failed to comply with the conditions of that order.
☒ Creditor certifies that no response was filed within the response period plus 3 days to the Motion for Relief from Stay that was filed on 08/03/07 and served on 08/03/07.

IT IS ORDERED that, except as provided in pt. 4 below, the stay existing pursuant to 11 USC §362(a) shall remain in effect as to the property described below (hereinafter "the property"):

☐ Personal property described as (e.g., 2001 Ford Taurus):

☒ Real property located at (i.e., street address):

100363 Highway 97 North, Chemult, Klamath County, Oregon and referred to by Debtors in their schedules as the Beaver Marsh Property.

☐ [Optional UNLESS In Rem Relief Granted] Exhibit A attached hereto is the legal description of the property.

IT IS FURTHER ORDERED that the stay is subject to the conditions marked below.

☐ 1. Regular Payment Requirements.

- ☐ a. Debtor(s) shall deliver regular monthly payments in the amount of \$_____ commencing _____ to Creditor at the following address:
- ☐ b. The Chapter 13 trustee shall immediately pay and disburse to Creditor the amount of \$_____ per month from funds paid to the trustee by Debtor(s), and continue each month until the plan is confirmed, at which time the plan payment terms shall control. Payments made by the trustee under this order shall be deemed to be payments under the plan for purposes of the trustee's collection of percentage fees.
- ☐ c. Debtor(s) shall pay to the trustee any and all payments required to be paid under the terms of the Chapter 13 plan.

☐ 2. Cure Payment Requirements. Debtor(s) shall cure the post-petition default of \$_____ consisting of

(e.g., \$_____ in payments and \$_____ in late charges for April - June, 2002), as follows:

- ☐ a. In equal monthly installments of \$_____ each, commencing _____ and continuing thereafter through and including _____.
- ☐ b. By paying the sum of \$_____ on or before _____, and the sum of \$_____ on or before _____.
- ☐ c. Other (describe):

☐ 3. Insurance Requirement(s). Debtor shall maintain insurance on the property at all times as required by the security agreement, naming _____ as the loss payee.

On or before _____ Debtor(s) shall provide counsel for Creditor with proof of insurance.

☒ 4. Stay Relief and Codebtor Stay Relief without Cure Opportunity.

- ☐ a. Upon default in the conditions in pt(s) _____ Creditor may file and serve a certificate of non-compliance specifying the default, together with a proposed order terminating the stay to allow Creditor to foreclose on, and obtain possession of, the property, which the Court may grant without further notice or hearing.
- ☐ b. The stay is terminated to allow Creditor to foreclose on, and obtain possession of, the property provided that a foreclosure sale shall not occur prior to _____.
- ☐ c. Creditor is granted relief from stay effective _____ to foreclose on, and obtain possession of, the property.
- ☒ d. Creditor is granted relief from stay to foreclose on, and obtain possession of, the property.
- ☐ e. If a Creditor with a senior lien on the property is granted relief from stay, Creditor may file and serve a certificate identifying the senior lien holder and a proposed order terminating the stay, which the Court may grant without further notice or hearing.
- ☐ f. Creditor is granted relief from stay to _____.
- ☐ g. Creditor is granted "in rem" relief from stay with respect to the real property described above and in Exhibit A. This order shall be binding in any other case filed under 11 USC purporting to affect such real property filed not later than two (2) years after the date of the entry of this order unless the bankruptcy court in the subsequent case grants relief from this order. Any governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording.

- ☐ h. Creditor is granted relief from the codebtor stay, as it applies to the codebtor(s) named in the caption above, to enforce the terms of the contract and collect the deficiency balance.
- ☐ 5. **Stay Relief with Cure Opportunity.** Upon default in the checked condition(s) in pt(s). 1 - 3, Creditor shall serve written notice of default on ☐ Debtor(s) and ☐ Attorney for Debtor(s) that gives Debtor(s) _____ calendar days after the mailing of the notice to cure the default. If Debtor(s) fails to cure the default in accordance with this paragraph, then Creditor shall be entitled to submit a proposed order terminating the stay, which the Court may grant without further notice or hearing.
- ☐ a. The notice of default may require that Debtor(s) make any payment(s) that becomes due between the date the notice of default is mailed and before the cure deadline.
- ☐ b. The notice of default may require Debtor(s) to pay \$ _____ for the fees and costs of sending the notice.
- ☐ c. Only _____ notices of default and opportunity to cure are required per ☐ year (calculated from date of entry of this order), ☐ during the remainder of this case, or ☐ (describe):
- ☐ 6. **Amended Proof of Claim.** Creditor shall file an amended proof of claim to recover all accrued post-petition attorney fees and costs and (describe):

☒ 7. **Miscellaneous Provisions.**

- ☒ a. If Creditor is granted relief from stay, the 10-day stay provided by Fed. Rule Bankr. Proc. 4001(a) shall be waived.
- ☒ b. Any notice that Creditor's counsel shall give to Debtor(s)/Codebtor, or attorney for Debtor(s)/Codebtor, pursuant to this order shall not be construed as a communication under the Fair Debt Collection Practices Act, 15 USC §1692.
- ☐ 8. A final hearing on Creditor's motion for relief from stay shall be held on _____ at _____ in _____.

☒ 9. Other:

Property is vacant and uninsured.

Co-Debtor stay was served on 8/3/07 but filed with the court on 8/6/07.

* Rodney A. Dalton, Trustee for the Rodney A. Dalton Pension Trust

PRESENTED, AND CERTIFIED, BY:

###

/s/ Nancy K. Cary

IT IS SO STIPULATED:

Creditor's Attorney:

Name: _____
OSB#: _____

NO OBJECTION TO ORDER BY CASE TRUSTEE:

By: _____

Debtor(s)'s Attorney:

Name: _____
OSB#: _____

Codebtor's Attorney:

Name: _____
OSB#: _____

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2007 the foregoing **ORDER REGARDING RELIEF FROM STAY** was served on the parties listed below by: ☒ depositing in the United States mail at Eugene, Oregon, enclosed in a sealed envelope, with postage paid; ☒ electronic filing; _____ sending via facsimile machine to each person(s) fax number of record; _____ delivering by messenger, and addressing as follows:

Name and address

Service method

Glenn A. Leggett
15970 Old Mill Road
LaPine, OR 97739

First Class Mail

Debtor

Kathleen I. Leggett
15970 Old Mill Road
LaPine, OR 97739

First Class Mail

Debtor/Co-Debtor

Jonathan G. Basham
Attorney at Law
2542 NE Courtney Dr. #200
Bend, OR 97701

Electronic Filing/First Class Mail

Attorney for Debtors

Brian D. Lynch
Trustee
1300 SW 5th #1700
Portland, OR 97201

Electronic Filing/First Class Mail

US Trustee, Portland
620 SW Main St., #213
Portland, OR 97205

Electronic Filing/First Class Mail

Dan Bunch
Klamath County Counsel
305 Main Street
Klamath Falls, OR 97601

First Class Mail

HERSHNER HUNTER, LLP

/s/Nancy K. Cary

By _____
Nancy K. Cary, OSB No. 90225
Of Attorneys for Rodney A. Dalton Trustee for
the Rodney A. Dalton Pension Trust

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