

MITC82144

2008-012521

Klamath County, Oregon



00052771200800125210060065

09/08/2008 11:31:28 AM

Fee: \$56.00

**RECORDING COVER SHEET**

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.

**After Recording Return To:**

BOIVIN, UERLINGS & DIACONI, P.C.  
803 MAIN STREET, SUITE 201  
KLAMATH FALLS, OR 97601

**1. Name(s) of the Transaction(s):**

X AFFIDAVIT OF MAILING, TRUSTEE'S NOTICE OF SALE  
X AFFIDAVIT OF NON-OCCUPANCY

**2. Direct Party (Grantor):**

POTTER, THOMAS AND LOIS

**3. Indirect Party (Grantee):**

N/A

**4. True and Actual Consideration Paid:**

N/A

**5. Legal Description:**

SEE ATTACHED EXHIBIT

5/14/11

ES

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



# AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

RE: Trust Deed from

Thomas L. Potter and Lois Potter

To

Grantor

AmeriTitle, an Oregon corporation

Trustee

After recording, return to (Name, Address, Zip):

James R. Uerlings

803 Main St., Ste 201

Klamath Falls, OR 97601

STATE OF OREGON,

County of \_\_\_\_\_ } ss.

I certify that the within instrument was received for recording on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ and/or as fee/file/instrument/microfilm/reception No. \_\_\_\_\_, Records of this County.

Witness my hand and seal of County affixed.

NAME

TITLE

By \_\_\_\_\_, Deputy.

STATE OF OREGON, County of Klamath ) ss:I, James R. Uerlings, being first duly sworn, depose, and say 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 the beneficiary's successor in interest named in the attached original notice of sale given under the terms of that certain deed described in the notice of sale.

I gave notice of the sale of the real property described in the attached trustee's Notice of Sale by mailing copies 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:

NAME

ADDRESS

Thomas and Lois Potter  
c/o Sarah V. Potter

431 Main St.  
Klamath Falls, OR 97601

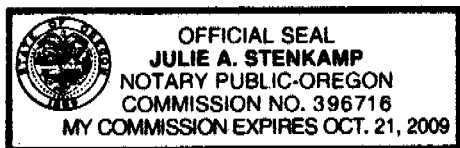
Loretta Parker-Keady  
Remax Hallmark Realty

404 Main St.  
Klamath Falls, OR 97601

These 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 set forth in ORS 86.785.\*

Each of the notices so mailed was certified to be a true copy of the original notice of sale by James R. Uerlings, attorney for the trustee named in the notice. Each such copy was mailed 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 April 22, 2008. 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, with postage thereon in an amount sufficient to accomplish the same. Each such notice was 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 a successor trustee, and "person" includes a corporation and any other legal or commercial entity.

SIGNED AND SWORN TO before me on September 5, 2008

Notary Public for Oregon

My commission expires 10/21/09

\* More than one form of affidavit may be used when the parties are numerous or when the mailing is done on more than one date. Pursuant to ORS 86.740(2), a notice served by mail in accordance with ORS 86.740(1) is effective when the notice is mailed.  
PUBLISHER'S NOTE: An original notice of the sale, bearing the trustee's actual signature, should be attached to the foregoing affidavit.

## TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by Thomas L. Potter and Lois Potter

to Amerititle, an Oregon corporation, as grantor,  
 in favor of Armand R. LaBorde, Trustee for the Armand R. LaBorde Revocable Living\*, as trustee,  
 dated August 4, 2006, recorded on August 25, 2006, in the Records of  
Klamath County, Oregon, in book/reel/volume No. 2006 at page 017150, ~~XXXX~~  
~~for the instrument/microfilm/reception No. XXXXXXXXXXXXXXXXXX (indicate which)~~, covering the following described real property  
 situated in that county and state, to-wit:

\*Trust dated April 13, 1997.

See Exhibit A, attached hereto and incorporated by this reference.

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 in grantor's failure to pay when due the following sums: 1) Failure to make first payment of \$50,000 due on August 25, 2007 and all payments thereafter; 2) Failure to pay Klamath County real property taxes in the amount of \$8,070.20 plus interest and penalties accruing after April 7, 2008; and 3) Failure to provide proof of insurance on the property.

By reason of the default just described, the beneficiary has declared all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to-wit: 1) Principal in the amount of \$240,000 plus interest from July 12, 2006 until paid; 2) Klamath County real property taxes in the amount of \$8,070.20, plus interest and penalties accruing after April 7, 2008; 3) beneficiary's attorney fees, trustee fees, and all costs of foreclosure as permitted under ORS Chapter 86; and, 4) any property taxes or insurance premiums advanced by beneficiary to protect this interest.

WHEREFORE, notice is hereby given that the undersigned trustee will on September 15, 2008, at the hour of 11:30 ~~o'clock~~, A.M., in accord with the standard of time established by ORS 187.110, at the front steps of the Klamath County Circuit Court, 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 real property described above 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 the 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 those 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 and attorney 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 April 17, 2008James R. Uerlings

Successor Trustee

State of Oregon, County of Klamath) ss.

I, the undersigned, certify that I am the attorney or one of the attorneys for the above named trustee and that the foregoing is a complete and exact copy of the original trustee's notice of sale.

\_\_\_\_\_  
Attorney for Trustee

SERVE: \* \_\_\_\_\_

### **Exhibit A**

Real property in the County of Klamath, State of Oregon, commonly known as 29200 Highway 140 W, Klamath Falls, more particularly described as follows:

All that portion of the SW 1/4 SE 1/4 of Section 10, Township 36 South, Range 6 East of the Willamette Meridian, in the County of Klamath, State of Oregon, lying Southwesterly of the Oregon State Secondary Highway designated as Lake O' the Woods Highway No. 270.

Tax Parcel No. R315698

**AFFIDAVIT  
AS TO  
NON-OCCUPANCY**

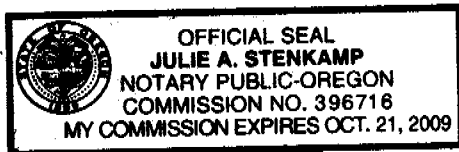
I, Gary Nielsen, hereby acknowledge that I am the process server retained by the law firm of Boivin, Uerlings & DiIaconi, P.C. to serve a Trustee's Notice of Sale upon any occupant of the real property located at 29200 Hwy 140 W, Klamath Falls, Oregon and that no such occupant was found on said real property. I, therefore, posted said notice on the door of the main building and a camp trailer on April 22, 2008 at 2:45 p.m.

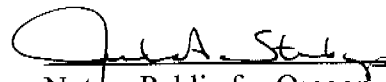
Dated this 22<sup>nd</sup> day of April, 2008.

  
\_\_\_\_\_

State of Oregon       )  
                                  ) ss.  
County of Klamath    )

This instrument was acknowledged before me this 22<sup>nd</sup> day of April, 2008 by Gary Nielsen.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires: 10/21/09

RETURN OF SERVICE

STATE OF OREGON     )  
                                  )  
County of Klamath    )

COURT CASE NO. \_\_\_\_\_

I HEREBY CERTIFY THAT on 4-22-08 the within:

- |  |  |                                   |
|--|--|-----------------------------------|
| <input type="checkbox"/> Summons & Complaint | <input type="checkbox"/> Summons & Petitions | <input type="checkbox"/> Petition |
| <input type="checkbox"/> Complaint           | <input type="checkbox"/> Petition            | <input type="checkbox"/> Answer   |
| <input type="checkbox"/> Motion              | <input type="checkbox"/> Affidavit           | <input type="checkbox"/> Order    |
| <input type="checkbox"/> Order to Show Cause | <input type="checkbox"/> Restraining Order   | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Citation            | <input type="checkbox"/> Small Claim         | <input type="checkbox"/> Notice   |

☒ TRUSTEE'S NOTICE OF SALE 29200 Hwy 140 west

for service on the within named: \_\_\_\_\_

☐ SERVED: \_\_\_\_\_ personally and in person at

☐ SUBSTITUTE SERVICE: By leaving a true copy with \_\_\_\_\_, a person over the age of fourteen years, who resides at the place of abode of the within named \_\_\_\_\_, at said abode: \_\_\_\_\_

☐ OFFICE SERVICE: By leaving a true copy with \_\_\_\_\_ the person in charge of the office maintained for the conduct of business by \_\_\_\_\_

☐ CORPORATE: By leaving a true copy with \_\_\_\_\_ of said corporation.

☐ OTHER METHOD: POSTED MAIN BUILDING & CAMP TRAILER IN FRONT

☐ NOT FOUND: After due and diligent search and inquiry, I hereby return that I have been unable to find the within named \_\_\_\_\_ within Klamath County.

ALL SEARCH AND SERVICE WAS MADE WITHIN KLAMATH COUNTY, STATE OF OREGON.

DATE AND TIME OF SERVICE OR NOT FOUND: 4-22-08 245 PM

I FURTHER CERTIFY that I am a competent person 18 years of age or older and a resident of the state of service or the state of Oregon and that I am not a party to nor an officer, director or employee of, not attorney for any party, corporate or otherwise, that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

By: Gary Nicksa