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10/09/2008 09:09:31 AM

Fee: \$36.00

## NOTICE OF DEFAULT AND ELECTION TO SELL

RE: Trust Deed from Patrick D. Fitzgerald, a married man, as his sole and separate property, Grantor

TO: Geneva Real Estate Investments, Inc., Beneficiary

AFTER RECORDING RETURN TO: Successor Trustee  
Scott D. MacArthur, P.C.  
635 Main Street  
Klamath Falls, OR 97601

## NOTICE OF DEFAULT AND ELECTION TO SELL

Reference is made to that certain trust deed made by Patrick D. Fitzgerald, a married man, as his sole and separate property, as grantor, to Geneva Real Estate Investments, Inc., as trustee, in favor of Geneva Real Estate Investments, Inc., as beneficiary, dated July 12, 2005, recorded July 19, 2005, in the mortgage records of Klamath County, Oregon, in book/reel/volume No. M05 at page 55466, covering the following described real property situated in said county and state, to-wit:

## Exhibit "A"

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 above described real property is situate; further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the said trust deed, or, if such action has been instituted, such action has been dismissed.

There is a default by the grantor or other person owing an obligation, the performance of which is secured by said 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 following sums:

Monthly payments in the amount of \$2,860.00 per month beginning March 18, 2008 through the present.

Taxes for the fiscal year 2005-2006, delinquent in the sum of \$365.13, plus interest.  
Taxes for the fiscal year 2006-2007, delinquent in the sum of \$1,119.76, plus interest.

Taxes for the fiscal year 2007-2008, delinquent in the sum of \$1,144.83, plus interest.

By reason of said default, the beneficiary has declared all sums owing on the

obligation secured by said trust deed immediately due and payable, said sums being the following, to-wit: \$300,000.00 as of March 18, 2008, plus interest.

Notice hereby is given that the beneficiary and trustee, by reason of said default, have elected and do hereby elect to foreclose said trust deed by advertisement and sale pursuant to Oregon Revised Statutes Sections 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for case the interest in the said described property which the grantor had, or had the power to convey, at the time of the execution by him of the trust deed, together with any interest the grantor or his successors in interest acquired after the execution of the trust deed, to satisfy the obligations secured by said 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 attorney.

Said sale will be held at the hour of 10:00 o'clock, A.M., Standard Time as established by Section 187.110 of Oregon Revised Statutes on February 20, 2009, at the following place: 635 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon, which is the hour, date and place fixed by the trustee of said sale.

Other than as shown of record, neither the said beneficiary or the said trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the trust deed, or of any successor in interest to the grantor or of any lessee or other person in possession of or occupying the property, except:

NAME AND LAST KNOWN ADDRESS	NATURE OF RIGHT, LIEN OR INTEREST
Patrick D. Fitzgerald 3157 Wagner Heights Road Stockton, CA 95209	Default upon Trust Deed
Patrick D. Fitzgerald 11630 Highway 39 Klamath Falls, OR 97603	Default upon Trust Deed
Emmett's Auto Repair Gary F. Harlan, Manager 3315 Washburn Way Klamath Falls, OR 97603	Judgment dated May 25, 2006 Klamath County Case No.0600520-CV
Robert L. Brown 5030 Old Sonoma Road Napa, CA 94558	Judgment dated March 1, 2007 Klamath County Case No.0504980-CV Supplemental Judgment dated April 17, 2007

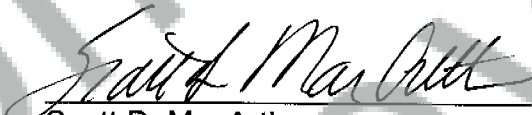
District Director, Internal Revenue Service  
Attn. Chief Special Procedures  
915 Second Avenue M/S W245  
Seattle, WA 98174

Federal Tax Lien #422371208,  
February 26, 2008, 2008, Page  
002361, Patrick Fitzgerald

Notice is further given that any person named in Section 86.753 of Oregon Revised Statutes has the right, at any time prior to five days before the trustee conducts 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 trustee's and attorney's fees not exceeding the amounts provided by said Section 86.753 of Oregon Revised Statutes.

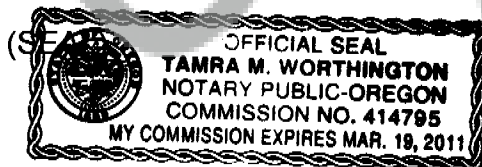
In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

DATED: October 9, 2008.

  
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Scott D. MacArthur  
Successor Trustee

STATE OF OREGON, County of Klamath) ss.

The foregoing instrument was acknowledged before me this 9 day of October, 2008, by Scott D. MacArthur.



Before me:   
Notary Public for Oregon

My Commission Expires: March 19, 2011

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A parcel of land situated in the S1/2 S1/2 NE1/4 of Section 1, Township 40 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the East one-quarter corner of Section 1; thence North 89° 45' 40" West 30.00 feet to a 3/4" iron rod at the intersection with the Westerly right of way line of Oregon State Highway 39; thence North 00° 15' 29" East 229.06 feet along the Westerly right of way line of said Highway 39 to a 5/8" iron rod, being a corner of said parcel, the true point of beginning; thence North 89° 45' 40" West 950.84 feet to a 5/8" iron rod; thence South 00° 15' 29" West 229.06 feet to a 5/8" iron rod at the intersection with the center one-quarter section line of Section 1; thence North 89° 45' 40" West 1663.99 feet along the center one-quarter section line of Section 1 to the center one-quarter corner of Section 1 marked by a 5/8" iron rod; thence North 00° 04' 23" East 664.33 feet along the center one-quarter section line of Section 1 to a point; thence South 89° 46' 18" East 2616.98 feet to a point at the intersection with the Westerly right of way line of said Highway 39; thence South 00° 15' 29" West 435.75 feet along the Westerly right of way line of said Highway 39 to the point of true beginning.

The basis of bearing Minor Land Partition No. 79-82 on file in the office of the County Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM a 40 foot wide strip of K.L.D. Drain over and across the S1/2 S1/2 NE1/4 Section 1, Township 40 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.