

2008-015915

Klamath County, Oregon



00056865200800159150110117

12/01/2008 11:38:40 AM

Fee: \$91.00

Recording Requested By:  
Aspen Title & Escrow, Inc.  
525 Main Street  
Klamath Falls, OR 97601

When Recorded Return To:  
*ATE 65936*  
Aspen Title & Escrow, Inc.  
525 Main Street  
Klamath Falls, OR 97601

Until requested otherwise, send all tax statements:

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

## COVER SHEET

### DOCUMENT:

**Affidavit of Mailing / Trustee's Notice of Sale**  
**Affidavit of Service**  
**Affidavit of Publication**  
**Certificate of Non-Military Service**

### ORIGINAL GRANTOR ON TRUST DEED:

**Elwynn Kirby**

### ORIGINAL BENEFICIARY ON TRUST DEED:

**West Coast Bank**

*# 86 ATE*

AFTER RECORDING RETURN TO:  
Erich M. Paetsch, OSB# 99335  
Saalfeld Griggs PC  
P. O. Box 470  
Salem, Oregon 97308-0470  
Telephone: (503) 399-1070

**ATE 65936**

**AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE AND NOTICE OF FORECLOSURE**

STATE OF OREGON, County of Marion, ss:

I, Erich M. Paetsch, 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 described in said 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. I also provided a Notice of Foreclosure to the grantors and borrowers by mailing a copy thereof, as well as to any occupant of the property actually known to me other than the grantors by both first class mail and certified mail return receipt requested together with the Notice of Sale at their respective last known addresses pursuant to House Bill 3630 (OR Special Session 2008) to wit:

NAME AND ADDRESS	CERTIFICATE OF MAILING NO.
Elisey Toran Congruent Construction P.O. Box 1942 Klamath Falls, OR 97601	7008 0500 0000 6091 8563
Elisey Toran, Congruent Construction LLC Attn. Nathan J. Ratliff 905 Main St. Ste 200 Klamath Falls, OR 97601	7008 0500 0000 6091 8556
Francis Hansen & Martin LLP Attorneys for Central Oregon Wholesale Flooring Company 1148 NW Hill Street Bend, OR 97701	7008 0500 0000 6091 8549
Central Oregon Wholesale Flooring Company Attn. Travis Perkins 63010 Plateau Dr. Bend, OR 97701	7008 0500 0000 6091 8532

Carl W. Hopp, Jr.  
Attorney for Building Solutions LLC  
168 NW Greenwood Ave.  
Bend, OR 97701

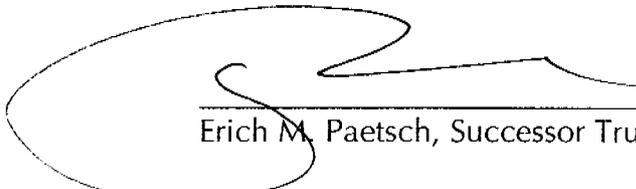
7008 0500 0000 6091 8525

Building

Said 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 required by ORS 86.785.

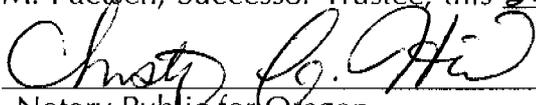
All notices so mailed were certified to be a true copy of the original notice of sale by Erich M. Paetsch, attorney for the trustee named in said notice or the Notice of Foreclosure; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States post office at Salem, Oregon, on August 6, 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 and postage thereon in the amount sufficient to accomplish the same. Each of said notices was mailed after the notice of default and election to sell described in said notice of sale was recorded.

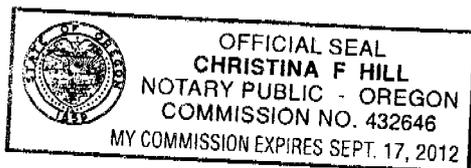
As used herein, the singular includes the plural, trustee includes successor trustee, and person includes corporation and any other legal or commercial entity.

  
\_\_\_\_\_  
Erich M. Paetsch, Successor Trustee

State of Oregon        )  
                                  ) ss.  
County of Marion     )

SUBSCRIBED AND SWORN TO before me by Erich M. Paetsch, Successor Trustee, this 26<sup>th</sup> day of November, 2008.

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: Sept. 17, 2012



AFTER RECORDING RETURN TO:  
Erich M. Paetsch, OSB# 99335  
Saalfeld Griggs PC  
P. O. Box 470  
Salem, Oregon 97308-0470  
Telephone: (503) 399-1070

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**TRUSTEE'S NOTICE OF SALE**

Reference is made to that certain trust deed made by Elwynn Kirby, as grantor, to Aspen Title & Escrow, Inc. as trustee, in favor of West Coast Bank, as beneficiary, dated January 24, 2008, recorded January 29, 2008, in the mortgage records of Klamath County, Oregon, as Document No. 2008-001205, and covering the following described real property situated in the above-mentioned county and state, to wit:

Lot 32, Tract No. 1432, Quail Point Estates, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon.

Real property commonly known as 770 Hogue Drive, Klamath Falls, OR 97601.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said 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:

**Loan No. 48014314:**

Failure to make regular monthly payments on May 1, 2008 and each month thereafter pursuant to the terms of the Promissory Note, Trust Deed and accompanying loan documents.

The existing payment defaults and the current default amounts owing upon the Promissory Note as of June 2, 2008 are:

Outstanding payment balance	\$3,410.18
Late charges	\$83.85
Total	\$3,494.03

By reason of these defaults, the beneficiary has and does hereby declare all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to wit:

Principle Balance:	\$272,069.51
Accrued Interest:	\$3,521.99
Late Charges:	\$83.85
Total:	\$275,675.35*

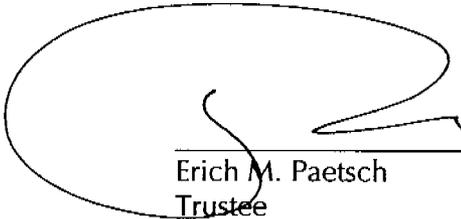
\*Total does not include accruing interest at the rate of \$55.9046 per diem from June 2, 2008, additional late charges, expenditures, or trustee fees, and attorney fees and costs. A total payoff amount as of a specific date is available upon request.

WHEREFORE, notice hereby is given that the undersigned trustee will on Thursday, December 4, 2008, at the hour of 10:10 o'clock a.m., in accord 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, without warranty either expressed or implied, to the highest bidder for cash the interest in the said described real property which the grantor had or had power to convey at the time of the execution by grantor of the said trust deed, together with any interest which the grantor or grantor's successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee and his counsel. 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 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.

Pursuant to ORS 86.757, and not later than fifteen (15) days before the sale date specified herein, the trustee shall provide a statement of information upon receipt of a written request from any interested party.

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: 4<sup>th</sup>, August, 2008



Erich M. Paetsch  
Trustee

State of Oregon, County of Marion) 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 said Trustee

**FAIR DEBT COLLECTION PRACTICES ACT NOTICE**

1. **This communication is an attempt to collect a debt and any information obtained will be used for that purpose.**
2. The amount of the debt is stated in the Trustee's Notice of Sale, attached hereto.
3. The beneficiary named in the attached Trustee's Notice of Sale is the creditor to whom the debt is owed.
4. The debt described in the Trustee's Notice of Sale, attached hereto, will be assumed to be valid by the Trustee unless the debtor, within thirty (30) days after the receipt of this notice, disputes the validity of the debt or some portion thereof.
5. If the debtor notifies the trustee within thirty (30) days of receipt of this notice that the debt, or any portion thereof, is disputed, the Trustee will provide verification of the debt and a copy of the verification will be mailed to the debtor by the Trustee.
6. If the creditor named as a beneficiary in the attached Trustee's Notice of Sale is not the original creditor, and if the debtor makes a request to the Trustee within the thirty (30) days from the receipt of this notice, the name and address of the original creditor will be mailed to the debtor by the Trustee.
7. Requests or objections should be addressed to:

Erich M. Paetsch  
Saalfeld Griggs PC  
PO Box 470  
Salem, OR 97308-0470  
Tel: (503) 399-1070  
Fax: (503) 371-2927  
Email: epaetsch@sglaw.com

Attachment:  
Trustee's Notice of Sale

# 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 # 10575

Notice of Sale/Elwynn Kirby

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:

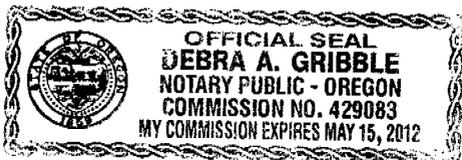
October 7, 14, 21, 28, 2008

Total Cost: \$1,027.56

Subscribed and sworn by Jeanine P Day  
before me on: October 28, 2008

*Debra A Gribble*  
Notary Public of Oregon

My commission expires May 15, 2012



**TRUSTEE'S NOTICE OF SALE**

Reference is made to that certain trust deed made by Elwynn Kirby, as grantor, to Aspen Title & Escrow, Inc. as trustee, in favor of West Coast Bank, as beneficiary, dated January 24, 2008, recorded January 29, 2008, in the mortgage records of Klamath County, Oregon, as Document No. 2008-001205, and covering the following described real property situated in the above-mentioned county and state, to wit:  
Lot 32, Tract No. 1432, Quail Point Estates, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon.  
Real property commonly known as 770 Hogue Drive, Klamath Falls, OR 97601.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said 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:

**Loan No. 48014314:**

Failure to make regular monthly payments on May 1, 2008 and each month thereafter pursuant to the terms of the Promissory Note, Trust Deed and accompanying loan documents. The existing payment defaults and the current default amounts owing upon the Promissory Note as of June 2, 2008

(Continued on top of next column)

(Continued from below)

are:	
Outstanding payment balance	\$3,410.18
Late charges	\$83.85
Total	\$3,494.03

By reason of these defaults, the beneficiary has and does hereby declare all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to wit:

Principle Balance:	\$272,069.51
Accrued Interest:	\$3,521.99
Late Charges:	\$83.85
Total:	\$275,675.35*

\*Total does not include accruing interest at the rate of \$55.9046 per diem from June 2, 2008, additional late charges, expenditures, or trustee fees, and attorney fees and costs. A total payoff amount as of a specific date is available upon request.

WHEREFORE, notice hereby is given that the undersigned trustee will on Thursday, December 4, 2008, at the hour of 10:10 o'clock a.m., in accord 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, without warranty either expressed or implied, to the highest bidder for cash the interest in the said described real property which the grantor had power to convey at the time of the execution by grantor of the said trust deed, together with any interest which the grantor or grantor's successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee and his counsel. 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 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.

Pursuant to ORS 86.757, and not later than fifteen (15) days before the sale date specified herein, the trustee shall provide a statement of information upon receipt of a written request from any interested party.

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: 4th, August, 2008.

/s/ Erich M. Paetsch  
Erich M. Paetsch  
Trustee

State of Oregon, County of Marion) 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.

/s/ Erich M. Paetsch  
Attorney for said Trustee

#10575 October 7, 14, 21, 28, 2008.

# Affidavit Return of Service

State of Oregon )  
County of Klamath )

Court Case Number: \_\_\_\_\_

I HEREBY CERTIFY THAT on 08-04-08 the within:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Summons & Complaint | <input type="checkbox"/> Summons & Petition | <input type="checkbox"/> Summons           |
| <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 checked="" type="checkbox"/> Notice |

TRUSTEE'S NOTICE OF SALE

for service on the within named: OCCUPANTS OF 770 HOGUE DR. K. FALLS OR 97601

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 VACANT HOUSE 770 HOGUE DR. K. FALLS OR 97601

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.

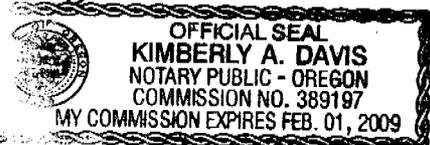
DATE AND TIME OF SERVICE OR NOT FOUND: 080408 AT 5:15 PM

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, nor attorney for any party, corporate or otherwise and knew that the person, firm or corporation served is the identical one named in the action.

By: DAVE DAVIS

Basin Proserve  
422 N. 6<sup>th</sup> Street  
Klamath Falls, OR 97601  
(541) 384-6060

Subscribed to and sworn to before me this 4<sup>th</sup> Day of Aug, 2008  
Kimberly A. Davis  
Notary Public



AFTER RECORDING RETURN TO:  
Erich M. Paetsch, OSB# 99335  
Saalfeld Griggs PC  
P. O. Box 470  
Salem, Oregon 97308-0470  
Telephone: (503) 399-1070

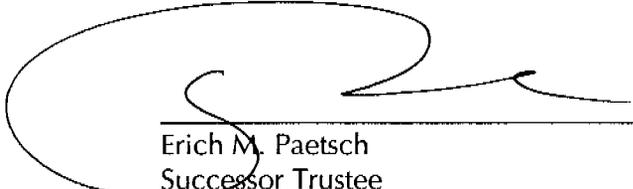
**CERTIFICATE OF NON-MILITARY SERVICE**

State of Oregon )  
 ) ss.  
County of Marion )

THIS IS TO CERTIFY that I am the attorney for the beneficiary in that certain trust deed in which Elwynn C. Kirby, as grantor, conveyed to Aspen Title & Escrow, as trustee, certain real property in Klamath County, Oregon, to secure an obligation in favor of West Coast Bank; which said trust deed was dated January 24, 2008 and recorded January 29, 2008, in the mortgage records of said county, as Document Number 2008-001205; thereafter a notice of default with respect to said trust deed was recorded August 4, 2008, as Document No. 2008-011009. I reasonably believe at no time was the real property described in and covered by said trust deed, or any interest therein, owned by a person in the military service as defined in Title I, Section 101, of the Servicemembers Civil Relief Act as amended. A copy of the Military Status Report is attached hereto as *Exhibit 1*.

In construing this certificate the singular includes the plural, and the word "grantor" includes any successor in interest to the grantor, the word "trustee" includes any successor trustee, and the word "beneficiary" includes any successor in interest to the beneficiary named in said trust deed.

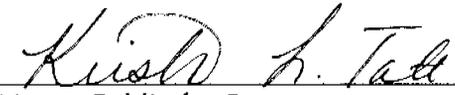
DATED: September 15, 2008

  
\_\_\_\_\_  
Erich M. Paetsch  
Successor Trustee

STATE OF OREGON, County of Marion ) ss.

This instrument was acknowledged before me on this 15<sup>th</sup> day of September, 2008, by Erich M. Paetsch, Successor Trustee.



  
\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: Sep. 16, 2011

Department of Defense Manpower Data Center

SEP-10-2008 11:00:35



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
KIRBY	ELWYNN C	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenselink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person ( e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID: *BNSOFJTTVIC*

