

MTZ 81688

2008-016600

Klamath County, Oregon



00057668200800166000090099

12/17/2008 03:30:13 PM

Fee: \$66.00

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

### AFFIDAVIT OF MAILING AMENDED 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 amended 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 Amended 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.

Shanna Smith  
60829 Willow Creek Loop  
Bend, OR 97702

7008 1300 0001 0014 1394

Occupant(s)  
711 Quail Point Drive  
Klamath Falls, OR 97601

7008 1300 0001 0014 1370

Brian D. Lynch  
Bankruptcy Trustee  
1300 SW 5<sup>th</sup> #1700  
Portland, OR 97201

7008 1300 0001 0014 1318

6/1/08

Anthony V. Albertazzi  
1070 NW Bond Street, #202  
Bend, OR 97701

7008 1300 0001 0014 1325

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

7008 1300 0001 0014 1332

Quail Point Estates  
Homeowners Association  
c/o William C. Nash, Registered Agent  
802 Hogue Drive  
Klamath Falls, OR 97601

7008 1300 0001 0014 1349

Building Solutions, LLC  
PO Box 7349  
Bend, OR 97708

7008 1300 0001 0014 1363

Building Solutions, LLC  
62960 Boyd Acres Road  
Bend, OR 97701

7008 1300 0001 0014 1387

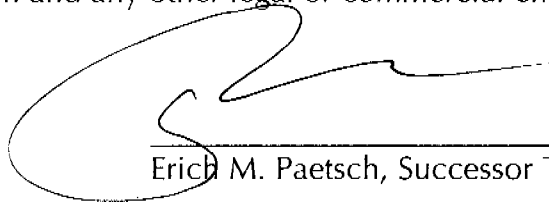
Aspen Tree Homes, LLC  
P.O. Box 5483  
Bend, OR 97708

7008 1300 0001 0014 1356

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 amended notices so mailed were certified to be a true copy of the original amended notice of sale by Erich M. Paetsch, attorney for the trustee named in said amended 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 December 2, 2008. With respect to each person listed above, one such amended notice was mailed with postage thereon sufficient for first class delivery to the address indicated, and another such amended 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 amended notices was mailed after the notice of default and election to sell described in said amended 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.

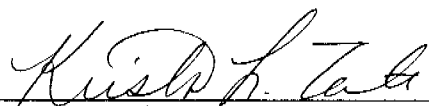


Erich M. Paetsch, Successor Trustee

State of Oregon       )  
                                  ) ss.  
County of Marion     )

SUBSCRIBED AND SWORN TO before me by Erich M. Paetsch, Successor Trustee, this 2<sup>nd</sup> day of December, 2008.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: Sep. 16, 2011

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

---

#### AMENDED TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by Shanna Smith, as grantor, to First American Title Insurance Company as trustee, in favor of West Coast Bank, as beneficiary, dated November 14, 2006, recorded November 17, 2006, in the mortgage records of Klamath County, Oregon, as Document No. 2006-023141, and covering the following described real property situated in the above-mentioned county and state, to wit:

Lot 19, Tract 1432-QUAIL POINT ESTATES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Real property commonly known as 711 Quail Point 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:

**Note No. 48011743:**

Failure to pay the total balance due and owing upon the maturity date of November 1, 2007.

By reason of default, the beneficiary hereby declares all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to wit:

Principal balance, plus interest, late charges, loan fees, and expenditures as of January 29, 2008:	\$282,022.62*
---	---------------

\* plus interest at the rate of \$65.24 per diem from January 29, 2008, late charges, expenditures, trustee fees, and attorney fees and costs.

The beneficiary and trustee, by reason of the default, elected to foreclose the trust deed by advertisement and sale pursuant to ORS 86.705 to 86.795. The sale was to be held at the hour of 2:00 o'clock p.m. in accord with the standard of time established by ORS 187.110 on Thursday December 18, 2008, at the following place: Front Entrance of the Klamath County Courthouse, 316 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon, which was the hour, date and place last set for the sale. Said sale will be postponed by oral proclamation to the revised date and time specified herein.

On July 9, 2008, Shanna Leanne Smith filed a Chapter 13 petition for bankruptcy in United States Bankruptcy Court for the District of Oregon Case No. 08-33370-rld13. The original sale proceedings were stayed by way of the filing of the bankruptcy petition on that date.

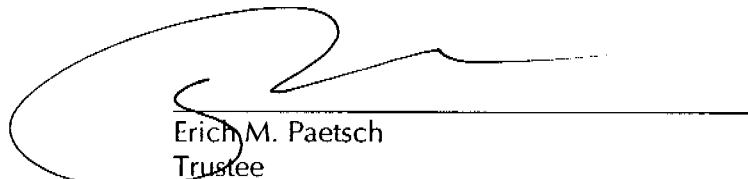
On November 17, 2008, the bankruptcy court dismissed the bankruptcy case, terminating the automatic stay with regard to the real property commonly known as 711 Quail Point Drive, Klamath Falls, OR 97601.

WHEREFORE, notice hereby is given that the undersigned trustee will on Tuesday December 23, 2008, at the hour of 2:00 o'clock p.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: December 2, 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 Amended Trustee's Notice of Sale, attached hereto.
3. The beneficiary named in the attached Amended Trustee's Notice of Sale is the creditor to whom the debt is owed.
4. The debt described in the Amended 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 amended 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 Amended 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 amended 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:  
Amended Trustee's Notice of Sale

# Affidavit Return of Service

State of Oregon )  
County of Klamath )

Court Case Number: AMENDED NOTICE OF SALE

I HEREBY CERTIFY THAT on 12/2/8 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 type="checkbox"/> Notice   |
| <input checked="" type="checkbox"/> <u>AMENDED TRUSTEE'S NOTICE OF SALE</u> |   |                                   |

for service on the within named: OCCUPANTS

☒ SERVED: DAWN DUPLIS personally and in person  
at 711 OVAL POINT DR KLAMATH FALLS OR 97601

☐ 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: \_\_\_\_\_

☐ 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: 12/2/8 AT 3:45 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  
DAVE DAVIS

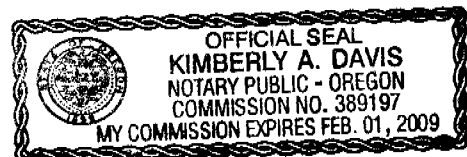
Basin Proserve  
422 N. 6<sup>th</sup> Street  
Klamath Falls, OR 97601  
(541) 884-6060

Subscribed to and sworn to before me this

10<sup>th</sup> Day of Dec, 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

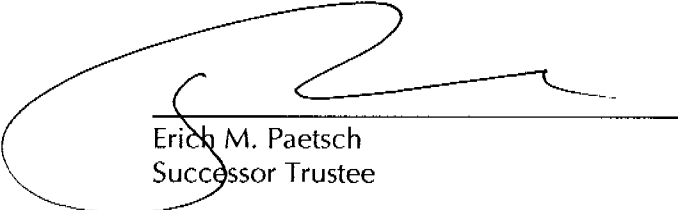
### CERTIFICATE OF NON-MILITARY SERVICE

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 Shanna Smith, as grantor, conveyed to First American Title Insurance Company, 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 November 14, 2006 and recorded November 17, 2006, in the mortgage records of said county, as Document Number 2006-023141; thereafter a notice of default with respect to said trust deed was recorded February 22, 2008, as Document No. 2008-002283. 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**.

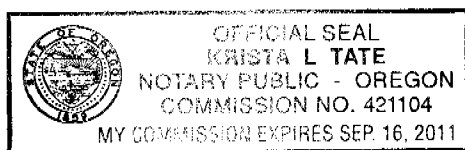
In construing this certificate the singular includes the plural, and the word "grantor" includes any successor in interest to the grantor, the word "trustee" includes any successor trustee, and the word "beneficiary" includes any successor in interest to the beneficiary named in said trust deed.


DATED: December 2, 2008

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

STATE OF OREGON, County of Marion ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of December 2008, by Erich M. Paetsch, Successor Trustee.



  
\_\_\_\_\_  
Notary Public for Oregon

My commission expires: SEP. 16, 2011



Department of Defense Manpower Data Center



DEC-02-2008 11:07:39



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
SMITH	SHANNA L	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. Snavelly-Dixon*

Mary M. Snavelly-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: **BZBKXAHNCHH**