

2009-000313

Klamath County, Oregon



00058572200900003130150158

01/12/2009 11:50:51 AM

Fee: \$111.00

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

When Recorded Return To:

Aspen Title & Escrow, Inc.
525 Main Street
Klamath Falls, OR 97601

Until requested otherwise, send all tax statements:

ATE 66139

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

COVER SHEET

DOCUMENT:

Affidavit of Mailing / Trustee's Notice of Sale
Affidavit of Non Occupancy
Affidavit of Publication
Certificate of Non-Military Service & DOD Certificate
Affidavit of Compliance

ORIGINAL GRANTOR ON TRUST DEED:

Kathi S. Agueda and Anthony S. Agueda

ORIGINAL BENEFICIARY ON TRUST DEED:

Cendant Mortgage Corporation

\$ 111 ATE

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
08-100996

OREGON
AFFIDAVIT OF MAILING OF NOTICE OF SALE

I, Kelly D. Sutherland, say and certify that:

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 successor in interest named in the Trust Deed described in the attached Notice of Sale.

I have given notice of sale of the real property described in the attached Notice of Sale by mailing a copy of the notice by registered or certified mail, return receipt requested, and first class mail to each of the following named persons at their last known addresses, to-wit:

Kathi S. Agueda
8921 McLaughlin Lane
Klamath Falls, OR 97601

Mortgage Electronic Registration Systems
P.O. Box 2026
Flint, MI 48501-2026

Anthony S. Agueda
8921 McLaughlin Lane
Klamath Falls, OR 97601

Countrywide Home Loans, Inc
4500 Park Granada
Calabasas, CA 91302

Kathi S. Agueda
240 Wild Rose Lane
Paso Robles, CA 93446

Mortgage Electronic Registration Systems,
Inc.
C/O Countrywide Home Loans
4500 Park Granada
Calabasas, CA 91302

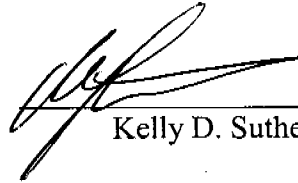
Anthony S. Agueda
240 Wild Road Lane
Paso Robles, CA 93446

The persons mailed to include the grantor in the trust deed, any successor in interest to the grantor whose interest appears of record or whose interest the trustee or the beneficiary has actual notice and any person requesting notice as provided in ORS 86.785 and all junior lien holders as provided in ORS 86.740.

Each of the notices so mailed was certified to be a true copy of the original Notice of Sale by Kelly D. Sutherland, Shapiro & Sutherland, LLC, the trustee named in said notice; each copy

was mailed in a sealed envelope, with postage prepaid, and was deposited by me in the United States post office at Vancouver, Washington, on September 15, 2008. Each notice was mailed after the date that the Notice of Default and Election to Sell described in said Notice of Sale was recorded which was at least 120 days before the day of the trustee sale.

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



Kelly D. Sutherland

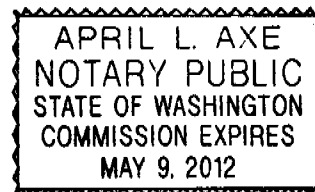
State of Washington)
)
County of Clark)

On this 9 day of January, in the year 2009, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal


Notary Public

My Commission Expires: May 9, 2012



TRUSTEE'S NOTICE OF SALE

A default has occurred under the terms of a trust deed made by Kathi S. Agueda and Anthony S. Agueda, wife and husband, as grantor to First American Title, as Trustee, in favor of Cendant Mortgage Corporation, as Beneficiary, dated October 19, 2004, recorded October 21, 2004, in the mortgage records of Klamath County, Oregon, in Volume M04, at Page 71941, beneficial interest now held by PHH Mortgage Corporation, fka Cendant Mortgage Corporation as covering the following described real property:

Lots 1 and 2, Block 2, Forest Green, according to the official Plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

COMMONLY KNOWN AS: 8921 McLaughlin Lane, 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:

Monthly payments in the sum of \$2,007.56, from June 1, 2008, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

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 sum being the following, to-wit:

\$258,314.09, together with interest thereon at the rate of 6.888% per annum from May 1, 2008, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

WHEREFORE, notice hereby is given that the undersigned trustee will on January 13, 2009, at the hour of 10:00 AM PT, in accord with the standard time established by ORS 187.110, at the main entrance of the Klamath County Courthouse, located at 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 said described real property which the grantor has or had power to convey at the time of the execution of said trust deed, together with any interest which the grantor or his 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. 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 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 obligations 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 ORS 86.753.

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.

Also, please be advised that pursuant to the terms stated on the Deed of Trust and Note, the beneficiary is allowed to conduct property inspections while property is in default. This shall serve as notice that the beneficiary shall be conducting property inspections on the said referenced property.

The Fair Debt Collection Practice Act requires that we state the following: This is an attempt to collect a debt, and any information obtained will be used for that purpose. If a discharge has been obtained by any party through bankruptcy proceedings: This shall not be construed to be an attempt to collect the outstanding indebtedness or hold you personally liable for the debt.

Dated: 09/12/2008

By: 

KELLY D. SUTHERLAND
Successor Trustee

State of Washington, County of Clark, ss:

I, the undersigned certify that the foregoing instrument is a complete and exact copy of the original Trustee's Notice of Sale

SHAPIRO & SUTHERLAND, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
Telephone: (360) 260-2253
Toll-free: 1-800-970-5647

08100996 / AGUEDA
ASAP# 2877516

SHAPOR

AFFIDAVIT OF NON-OCCUPANCY

STATE OF OREGON
County of Klamath ss.

I, Robert Bolenbaugh, hereby certify and swear that at all times herein mentioned I was and now am a competent person 18 years of age or older and a resident of the state where this attempt of service was made; that I am not a party to, an attorney in, or interested in any suit of action involving the property described below.

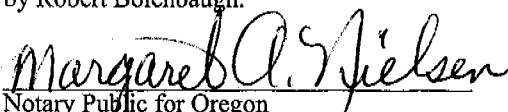
That on September 11, 2008, after personal inspection, I found the following described real property to be unoccupied:

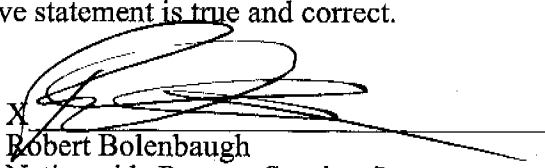
Lots 1 and 2, Block 2, Forest Green, according to the official Plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Commonly known as: **8921 McLaughlin Lane**
Klamath Falls, OR 97601

I declare under the penalty of perjury that the above statement is true and correct.

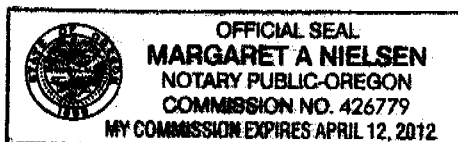
SUBSCRIBED AND SWORN BEFORE ME
this 19 day of September, 20 08
by Robert Bolenbaugh.


Notary Public for Oregon

X 
Robert Bolenbaugh
Nationwide Process Service, Inc.
420 Century Tower
1201 SW 12th Avenue
Portland, OR 97205
(503) 241-0636



180502



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 # 10631

Notice of Sale/Kathi S. & Anthony S. Agueda

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:

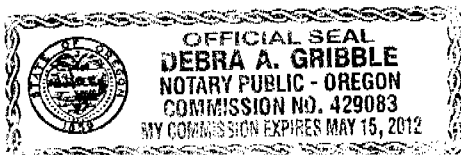
November 5, 12, 19, 26, 2008

Total Cost: \$895.84

Jeanine P. Day
Subscribed and sworn by Jeanine P. Day
before me on: November 26, 2008

Debra A. Gribble
Notary Public of Oregon

My commission expires May 15, 2012



TRUSTEE'S NOTICE OF SALE 08-100996

A default has occurred under the terms of a trust deed made by Kathi S. Agueda and Anthony S. Agueda, wife and husband, as grantor to First American Title, as Trustee, in favor of Cendant Mortgage Corporation, as Beneficiary, dated October 19, 2004, recorded October 21, 2004, in the mortgage records of Klamath County, Oregon, in Volume M04, at Page 71941, beneficial interest now held by PHH Mortgage Corporation, fka Cendant Mortgage Corporation as covering the following described real property: Lots 1 and 2, Block 2, Forest Green, according to the official Plat thereof on file in the office of the County Clerk of Klamath County, Oregon. COMMONLY KNOWN AS: 8921 McLaughlin Lane, 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: Monthly payments in the sum of \$2,007.56, from June 1, 2008, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

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 sum being the following, to-wit: \$258,314.09, together with interest thereon at the rate of 6.888% per annum from May 12, 2008, together with all costs, disbursements, and/or fees incurred or paid by the beneficiary and/or trustee, their employees, agents or assigns.

WHEREFORE, notice hereby is given that the undersigned trustee will on January 13, 2009, at the hour of 10:00 AM PT, in accord with the standard time established by ORS 187.110, at the main entrance of the Klamath County Courthouse, located at 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 said described real property which the grantor has or had power to convey at the time of the execution of said trust deed, together with any interest which the grantor or his 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. 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 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 obligations 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 ORS 86.753.

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. Also, please be advised that pursuant to the terms stated on the Deed of Trust and Note, the beneficiary is allowed to conduct property inspections while property is in default. This shall serve as notice that the beneficiary shall be conducting property inspections on the said referenced property. The Fair Debt Collection Practices Act requires that we state the following: This is an attempt to collect a debt, and any information obtained will be used for that purpose. If a discharge has been obtained by any party through bankruptcy proceedings: This shall not be construed to be an attempt to collect the outstanding indebtedness or hold you personally liable for the debt. Dated: Sept. 11, 2008. By: Kelly D. Sutherland, SUTHERLAND Successor Trustee SHAPIRO & SUTHERLAND, LLC 5501 N.E. 129th Court, Suite N Vancouver, WA 98662 www.shapiroattorneys.com/wa Telephone: (360) 260-2253 Toll-free: 1-800-970-5647 S&S 08-100966 ASAP# 2877516 11/05/2008, 11/12/2008, 11/19/2008, 11/26/2008 #10631 November 5, 12, 19, 26, 2008.

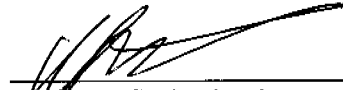
AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
Telephone:(360) 260-2253
08-100996

CERTIFICATE OF NON-MILITARY SERVICE

STATE OF WASHINGTON)
) SS.
County of CLARK)

THIS IS TO CERTIFY THAT I, Kelly D. Sutherland, am the Successor Trustee of that certain trust deed serviced by PHH Mortgage Corporation, fka Cendant Mortgage Corporation, the current beneficiary, in which Kathi S. Agueda and Anthony S. Agueda, wife and husband,, as grantor, conveyed to First American Title, as trustee, certain real property in Klamath County, Oregon; which said trust deed was dated October 19, 2004, and recorded October 21, 2004, in the mortgage records of said county, in Book No. Volume M04, at Page 71941, thereafter a Notice of Default with respect to said trust deed was recorded September 10, 2008, in Book No. 2008, at Page No. 12673, of said mortgage records; thereafter the said trust deed was duly foreclosed by advertisement and sale and the real property covered by said trust deed is scheduled to be sold at the trustee's sale on January 13, 2009. I reasonably believe at no time during the period of three months and one day immediately preceding the day of said sale and including the day thereof, 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 Article I of the "Soldiers' and Sailor's Civil Relief Act of 1940," as amended, as evidenced by the attached Department of Defense certificate(s), or legally incompetent under the laws of the State of Oregon.

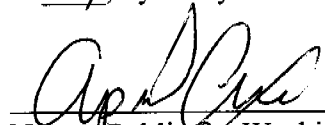
In construing this certificate, the masculine includes the feminine, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor, the word "trustee" includes any successor trustee, and the word "beneficiary" includes any successor in interest to the beneficiary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



Kelly D. Sutherland
Successor Trustee

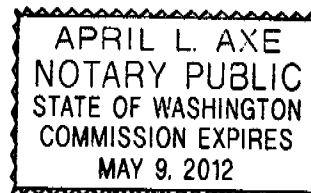
STATE OF WASHINGTON)
) SS.
COUNTY OF CLARK)

SUBSCRIBED AND SWORN to before me this 9 day of JANUARY,
2009, by Kelly D. Sutherland, Successor Trustee.



Notary Public for Washington
My commission expires MAY 9, 2012

Loan #: 0029328580



Department of Defense Manpower Data Center

JAN-05-2009 14:40:10



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
AGUEDA	KATHI S	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: **LJCSXTBFZS**

Department of Defense Manpower Data Center

JAN-05-2009 14:41:31



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
AGUEDA	ANTHONY S	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, 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: **LJDKYMLWU**

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
08-100996

TRUSTEE'S AFFIDAVIT AS TO COMPLIANCE TO HB3630

State of Washington)
)
County of Clark)

I, Kelly D. Sutherland, being first duly sworn, depose, say and certify that:

I am the Successor trustee in that certain trust deed executed and delivered by Kathi S. Agueda and Anthony S. Agueda, wife and husband, as grantor to First American Title, as trustee, in favor of Cendant Mortgage Corporation, as beneficiary, dated October 19, 2004, recorded October 21, 2004, in the mortgage records of Klamath County, Oregon, in Volume M04, at Page 71941, covering the following described real property situated in said county:

Lots 1 and 2, Block 2, Forest Green, according to the official Plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

COMMONLY KNOWN AS: 8921 McLaughlin Lane, Klamath Falls, OR 97601

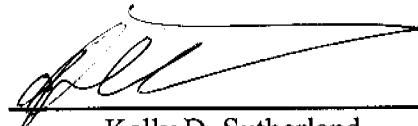
I hereby certify that on September 2, 2008, the attached notice of risk of loss was furnished by mailing a copy of the notice by registered or certified mail, return receipt requested, and first class mail to each of the following named persons

Kathi S. Agueda
8921 McLaughlin Lane
Klamath Falls, OR 97601

Anthony S. Agueda
8921 McLaughlin Lane
Klamath Falls, OR 97601

Occupant(s)
8921 McLaughlin Lane
Klamath Falls, OR 97601

The word "trustee" as used in this affidavit means any successor-trustee to the trustee named in the trust deed first mentioned above.



Kelly D. Sutherland

State of Washington)

County of Clark)

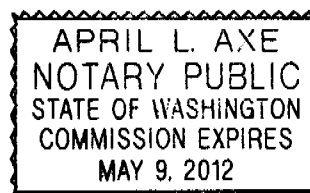
On this 9 day of ~~JANUARY~~ in the year 2008, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal



Notary Public

My Commission Expires May 9, 2012



NOTICE:

**YOU ARE IN DANGER OF LOSING YOUR PROPERTY IF YOU DO NOT
TAKE ACTION IMMEDIATELY**

This notice is about your mortgage loan on your property at 8921 McLaughlin Lane, Klamath Falls, OR 97601

Your lender has decided to sell this property because the money due on your mortgage loan has not been paid on time or because you have failed to fulfill some other obligation to your lender. This is sometimes called 'foreclosure'.

The amount you would have had to pay as of September 10, 2008 to bring your mortgage loan current was \$8,861.80. The amount you must now pay to bring your loan current may have increased since that date.

By law, your lender has to provide you with details about the amount you owe, if you ask. You may call this office at (360) 260-2253, or toll-free 1-800-970-5647, extension 278, to find out the exact amount you must pay to bring your mortgage loan current and to get other details about the amount you owe. You may also get these details by sending a request by certified mail to:

Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
Our File #: 08-100996

**THIS IS WHEN AND WHERE
YOUR PROPERTY WILL BE SOLD
IF YOU DO NOT TAKE ACTION:**

January 13, 2009, at the hour of 10:00 AM PT, at the main entrance of the Klamath County Courthouse, located at 316 Main Street, in the City of Klamath Falls, OR

THIS IS WHAT YOU CAN DO TO STOP THE SALE:

1. You can pay the amount past due or correct any other default, up to five days before the sale.
2. You can refinance or otherwise pay off the loan in full anytime before the sale.
3. You can call the Loss Mitigation department of PHH Mortgage Corporation at 800-449-8767 to find out if your lender is willing to give you more time or change the terms of your loan.
4. You can sell your home, provided the sale price is enough to pay what you owe.

There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call the State of Oregon Department of Consumer and Business Services at (503) 378-4140. You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at (503) 620-0222, or toll-free in Oregon at (800) 452-8260 or you may visit its website at: www.osbar.org Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to the State of Oregon Department of Consumer and Business Services' website at: www.oregon.gov/DCBS/index.shtml.

WARNING: You may get offers from people who tell you they can help you keep your property. You should be careful about those offers. Make sure you understand any papers you are asked to sign. If you have any questions, talk to a lawyer or one of the organizations mentioned above before signing.

DATED: September 10, 2008

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature: _____
Trustee telephone number: (360) 260-2253 or 800-970-5647