

**2009-000886**

## Klamath County, Oregon



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01/26/2009 03:33:55 PM

**Fee: \$66.00**

**AFTER RECORDING RETURN TO:**

**Lee M. Hess, P.C.**  
**4888 NW Bethany Blvd.**  
**Suite K5, #322**  
**Portland, Oregon 97229-9260**

**CIT SMALL BUSINESS LENDING**  
**CORPORATION a Delaware**  
**corporation**

**Plaintiff,**

and

**PHILLIP MARDINI**  
Defendant.

**AFFIDAVIT OF MAILING TRUSTEES  
NOTICE OF SALE**

STATE OF OREGON

)

) ss.

**County of Washington**

)

**I, SHONDA FORMAN, being first duly sworn, depose and say:**

1. I declare under penalty of perjury under the laws of the State of Oregon that I am now and at all material times herein mentioned have been a citizen of the United States of America, over the age of eighteen years, and not the Beneficiary or the Beneficiary's successor in interest named in the Trustee's Notice of Sale which is attached and incorporated by this reference as Exhibit

**1.**

# 1 – AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

*Lee M. Hess, P.C.*

4888 NW Bethany Blvd.

Suite K5, #322

Portland, Oregon 97229-9260

(503) 273-8674

fax: 503-961-8690

email: lee@lmhpc.net

2. At the direction and under the supervision of the Trustee under the subject Deed of Trust, I caused to be mailed on December 29, 2008 both by first class and certified mail with return receipt requested with postage thereon fully prepaid, a true and accurate copy of the original Amended Trustee's Notice of Sale and copy of which is attached as Exhibit 1, and a copy of the notice, a copy of which is attached as Exhibit 2, to the following:

Phillip Mardini  
c/o Dickey's Barbecue Pit  
3939 S. 6<sup>th</sup> Street  
#239  
Klamath Falls Oregon 97603

Phillip Mardini  
3930 S. 6<sup>th</sup> Street  
#239  
Klamath Falls Oregon 97603

Phillip Mardini  
9637 Canary Drive  
Bonanza, Oregon 97623

Phillip Mardini  
9638 Canary Drive  
Bonanza, Oregon 97623

Occupant  
9637 Canary Drive  
Bonanza, Oregon 97623

Occupant  
9638 Canary Drive  
Bonanza, Oregon 97623

3. Each copy was contained in a sealed envelope, with postage prepaid, and was deposited in the United States post office at Portland, Oregon, on December

2 - AFFIDAVIT OF MAILING TRUSTEE'S NOTICE  
OF SALE

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(503) 273-8674  
fax: 503-961-8690  
email: lee@lmhpc.net


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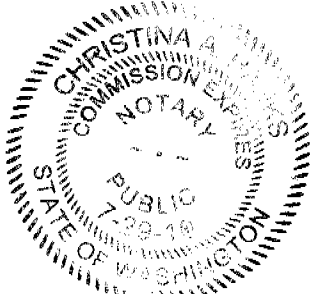
29, 2008 . Each of the notices was mailed after the Notice of Default and Election to Sell was recorded.

4. The above-named 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 or record or the Beneficiary has actual notice of the lien, or interest, (d) any person requesting notice, as required by ORS 86.785, e) any occupant of the property and f) to the address provided by each person who was present at the time and place set for any sale which was stayed as provided for in ORS 86.755 (6).
5. As used herein, the singular includes the plural, Trustee includes Successor Trustee, and person includes corporation and any other legal or commercial entity.

  
SHONDA K. FORMAN

SUBSCRIBED AND SWORN to before me this 30<sup>th</sup> day of Dec, 2008.

  
Notary Public for Oregon WA  
My Commission expires: 7/29/2010



3 - AFFIDAVIT OF MAILING TRUSTEE'S NOTICE  
OF SALE

*Lee M. Hess, P.C.*  
4888 NW Bethany Blvd.  
Suite K5, #322  
Portland, Oregon 97229-9260  
(503) 273-8674  
fax: 503-961-8690  
email: lee@lmhpc.net

## **TRUSTEE'S NOTICE OF SALE**

The trust deed to be foreclosed pursuant to Oregon law is referred to as follows (the "Trust Deed"):

**Grantor: Phillip Mardini**  
**Trustee: First American Title Insurance Company**  
**Beneficiary: CIT Small Business Lending Corporation**  
**Date: May 9, 2007**  
**Recording Date: May 10, 2007**  
**Recording Reference: 2007-008580**  
**County of Recording: Klamath**

The Trust Deed covers the following described real property situated in the County of Klamath, State of Oregon, ("the property"):

**Lots 1 and 2, Block 66 KLAMATH FALLS  
FOREST ESTATES HIGHWAY 66 UNIT,  
PLAT NO. 3, according to the official plat  
thereof on file in the office of the County  
Clerk, Klamath County, Oregon**

**Commonly known as: 9637-9638 Canary Drive,  
Bonanza, Oregon 97623**

The default for which foreclosure is permitted is the Grantor's failure to pay when due the following sums:

**The Monthly installment of \$8,114.06 Due  
December 1, 2007 and failure to pay the  
variable installments due on the first of each  
month thereafter, continuing through the  
installment due November 1, 2008, plus  
interest and penalties.**

By reason of the default, the Beneficiary has declared all sums owing on the obligation secured by the Trust Deed Immediately due and payable as follows:

**\$651,350.80 together with interest thereon at  
the rate of Prime plus 2.25 percent per annum**

**from September 18, 2008, until paid, together with Trustee's fees, attorney's fees, foreclosure costs and any sums advanced by the Beneficiary pursuant to the Trust Deed.**

NOTICE

By reason of the default, the Beneficiary and the Trustee have elected to foreclose the Trust Deed by advertisement and sale pursuant to ORS 86.705 to 86.795. At public auction, the Trustee shall sell to the highest bidder for cash the interest in the Property which the Grantor had, or had the power to convey, at the time of the execution by Grantor of the Trust Deed, together with any interest Grantor or Grantor's successors in interest acquired after the execution of the Trust Deed, to satisfy the debt secured by the Trust Deed and the expenses of the sale, including the compensation the Trustee as provided by law, and the reasonable fees of Trustee's attorneys.

***The sale will be held at the hour of 2:00 o'clock, P. M., on Friday April 30, 2009, 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 97601.***

NOTICE OF RIGHT TO CURE

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 doing all of the following:

1. Paying the Beneficiary the entire amount then due (other than such portion of the principal as would not then be due had no default occurred);
2. Curing any other default complained of herein that is capable of being cured by tendering the performance required under the debt or Trust Deed; and
3. Paying all costs and expenses actually incurred in enforcing the debt and Trust Deed, together with Trustee's and attorney fees not exceeding the amounts provided by 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 the Trust Deed, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

DATED November 25, 2008.

Lee M. Hess

Successor Trustee  
4888 NW Bethany Blvd.  
Suite K5, #322  
Portland, Oregon 97229-9260  
Phone: (503) 273-8674

STATE OF OREGON     )  
                              ) ss.  
County of Washington)

I, the undersigned, certify that I am one of the attorneys for the above named Successor Trustee and that the foregoing is a complete and exact copy of the original Trustee's Notice of Sale.

Attorney for the Trustee

**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 9637-9638 Canary Drive, Bonanza, Oregon 97623 (address).

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 8, 2008 to bring your mortgage loan current was \$651,350.80. 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 Dave Rand at 1 800 453 3548 x2038 (telephone number) to find out the exact amount you owe. You may also get these details by sending a request by certified mail to:

Dave Rand  
One CIT Drive  
3rd Floor  
Livingston, New Jersey 07039.

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

Date and time: Thursday, April 30, 2009 at 2:00 PM.

Place: Front Entrance of the Klamath County Courthouse, 316  
Main Street, in the City of Klamath Falls, County of  
Klamath, State of Oregon 97601

**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 Dave Rand at 1 800 453 3548 x2038 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.

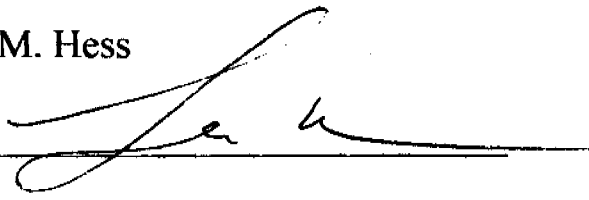
There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call the statewide telephone contact number at 800-SAFENET (800-723-3638). You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or toll free in Oregon at 800-452-7636 or you may visit its website at <http://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 <http://www.oregonlawhelp.org>.



WARNING: You may get offers from people who tell you that 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: December 15, 2008

Trustee name: Lee M. Hess

Trustee signature: 

Trustee telephone number: 503 273 8674