

2009-006630

Klamath County, Oregon



00065883200900066300140142

05/11/2009 03:35:29 PM

Fee: \$101.00

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 66462

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

COVER SHEET

DOCUMENT:

Affidavit of Mailing/Trustees Notice of Sale

Affidavit of Service

Affidavit of Publication

Certificate of Non Military Service and DOD Certificate

Affidavit of Compliance (HB 3630)

ORIGINAL GRANTOR ON TRUST DEED:

Randy Madden and Kym English

ORIGINAL BENEFICIARY ON TRUST DEED:

MERS

#101 ATE

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-101588

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:

Randy Madden
3930 Bristol Ave
Klamath Falls, OR 97603

Kym English
3930 Bristol Ave
Klamath Falls, OR 97603

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 February 4, 2009. 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.

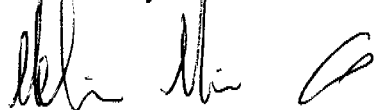


Kelly D. Sutherland

State of Washington)
)
County of Clark)

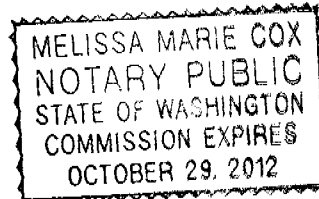
On this 6th day of May, in the year 2009, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal



Notary Public

My Commission Expires: 10/29/2012



TRUSTEE'S NOTICE OF SALE

A default has occurred under the terms of a trust deed made by Randy Madden and Kym English, as grantor to Amerititle, as Trustee, in favor of Mortgage Electronic Registrations Systems, Inc., as nominee for BCK Capital, Inc., as Beneficiary, dated June 15, 2005, recorded June 16, 2005, in the mortgage records of Klamath County, Oregon, in Volume M05, at Page 45408, beneficial interest having been assigned to EverHome Mortgage Company, as covering the following described real property:

Lot 10 of Summers Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon

COMMONLY KNOWN AS: 3930 Bristol Avenue, Klamath Falls, OR 97603

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 \$1,424.24, from September 1, 2008, and monthly payments in the sum of \$1,663.45, from January 1, 2009, 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:

\$160,833.57, together with interest thereon at the rate of 6.5% per annum from August 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 June 4, 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: 2/4/09

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

09101588 / MADDEN & ENGLISH
ASAP# 2983253

SHAPOR

AFFIDAVIT OF SERVICE

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 wherein the service hereinafter set forth was made; that I am not the beneficiary or trustee named in the original trustee's Notice of Sale attached hereto, not the successor of either, nor an officer, director, employee of or attorney for the beneficiary, trustee, or successor of either, corporate or otherwise.

I made service of the attached original Trustee's Notice of Sale upon the individuals and/or entities named below, by delivering a copy of the aforementioned documents, upon an **OCCUPANT** at the following "**Property Address**":

**3930 Bristol Avenue
Klamath Falls, OR 97603**

By delivering such copy, personally and in person to **Randy Madden**, at the above Property Address on February 03, 2009 at 12:18 PM.

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

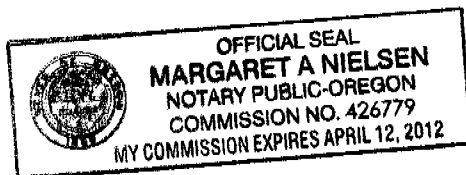
SUBSCRIBED AND SWORN BEFORE ME
this 5th day of February, 2009
by Robert Bolenbaugh.

Margaret A. Nielsen
Notary Public for Oregon

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



188622



Affidavit of Publication

STATE OF OREGON, COUNTY OF KLAMATH

I, Heidi Wright, Publisher,
being first duly sworn, depose and say
that I am 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 # 10981

Notice of Sale/Randy Madden & Kym English

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:

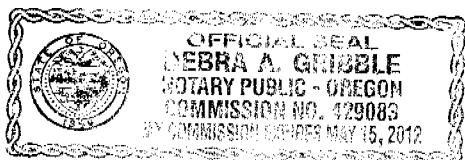
March 4, 11, 18, 25, 2009

Total Cost: \$1,051.43

Subscribed and sworn by Heidi Wright
before me on: March 25, 2009

Debra A. Gabbie
Notary Public of Oregon

My commission expires May 15, 2012



TRUSTEE'S NOTICE OF SALE

A default has occurred under the terms of a trust deed made by Randy Madden and Kym English, as grantor to Amerititle, as Trustee, in favor of Mortgage Electronic Registrations Systems, Inc., as nominee for BCK Capital, Inc., as Beneficiary, dated June 15, 2005, recorded June 16, 2005, in the mortgage records of Klamath County, Oregon, in Volume M05, at Page 45408, beneficial interest having been assigned to EverHome Mortgage Company, as covering the following described real property: Lot 10 of Summers Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon COMMONLY KNOWN AS: 3930 Bristol Avenue, Klamath Falls, OR 97603.

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 56.73 (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 \$1,424.24, from September 1, 2008, and monthly payments in the sums of \$1,563.45, from January 1, 2009, 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: \$160,833.57, together with interest thereon at the rate of 6.5% per annum from August 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 June 4, 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 live 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: Jan. 30, 2009. By: KELLY D. SUTHERLAND Successor Trustee SHAPIRO & SUTHERLAND, LLC 5501 N.E. 109th Court, Suite N Vancouver, WA 98662 www.shapiroattorneys.com/wa Telephone: (360) 260-2253 Toll-free: 1-800-970-5647 S&S 09-101588 ASAP# 2983253 03/04/2009, 03/11/2009, 03/18/2009, 03/25/2009 #10981 March 4, 11, 18, 25, 2009.

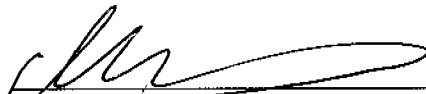
AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
Telephone:(360) 260-2253
09-101588

CERTIFICATE OF NON-MILITARY SERVICE

STATE OF WASHINGTON)
) SS.
County of CLARK)

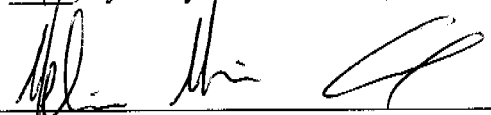
THIS IS TO CERTIFY THAT I, Kelly D. Sutherland, am the Successor Trustee of that certain trust deed serviced by EverHome Mortgage Company, the current beneficiary, in which Randy Madden and Kym English, as grantor, conveyed to Amerititle, as trustee, certain real property in Klamath County, Oregon; which said trust deed was dated June 15, 2005, and recorded June 16, 2005, in the mortgage records of said county, in Book No. Volume M05, at Page 45408, as thereafter a Notice of Default with respect to said trust deed was recorded January 29, 2009, as Document/Instrument/Recorder's Fee No. 2009/1095, 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 June 4, 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.

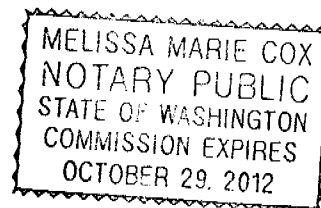

Kelly D. Sutherland
Successor Trustee

STATE OF WASHINGTON)
) SS.
COUNTY OF CLARK)

SUBSCRIBED AND SWORN to before me this 6th day of May,
2009, by Kelly D. Sutherland, Successor Trustee.



Notary Public for Washington
My commission expires 10/29/2012



Loan #: 9000288845

Department of Defense Manpower Data Center

JAN-22-2009 09:04:26



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
ENGLISH	KYM	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:RFSKRSQURZ

Department of Defense Manpower Data Center

JAN-22-2009 09:03:13



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
MADDEN	RANDY	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

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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:RWGJRYECZM

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-101588

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 Randy Madden and Kym English as grantor to Amerititle as trustee, in which Mortgage Electronic Registrations Systems, Inc., as nominee for BCK Capital, Inc. is beneficiary, recorded on June 16, 2005, in the mortgage records of Klamath County, Oregon in Book M05, at Page 45408, covering the following described real property situated in said county:

Lot 10 of Summers Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon

Commonly known as: 3930 Bristol Avenue, Klamath Falls, OR 97603


I hereby certify that on January 30, 2009, 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:

Randy Madden
3930 Bristol Ave
Klamath Falls, OR 97603

Kym English
3930 Bristol Ave
Klamath Falls, OR 97603

Occupant(s)
3930 Bristol Avenue
Klamath Falls, OR 97603

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

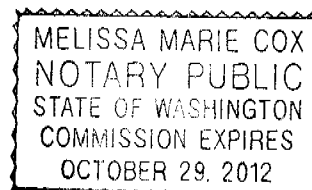
State of Washington)
)
County of Clark)

On this 6th day of May, 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 10/29/2012



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 3930 Bristol Avenue, Klamath Falls, OR 97603

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'.

In order to bring your mortgage loan current, the amount you need to pay as of today, January 30, 2009 is \$8,575.72.

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 #: 09-101588

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

June 4, 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:

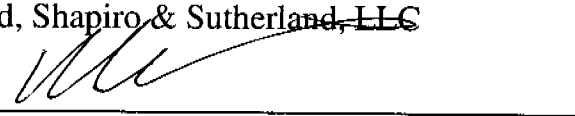
1. You can pay the amount past due or correct any other default, up to five days before the sale.
2. You can refinance or otherwise pay off the loan in full anytime before the sale.
3. You can call the Loss Mitigation department of Everhome Mortgage Company at 800-669-7724, X4715 to find out if your 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) 684-3763, or toll-free in Oregon at (800) 452-7636 or you may visit its website at: <http://www.osbar.org/public/ris/ris.html#referral>. 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 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: January 30, 2009

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature: 

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