

2009-012542

Klamath County, Oregon



00072970200900125420150157

09/22/2009 03:28:27 PM

Fee: \$106.00

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 66765

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

## COVER SHEET

### DOCUMENT:

**Affidavit of Mailing /Copy of Trustees Notice of Sale**

**Affidavit of Mailing/Posting**

**Affidavit of Publication**

**Certificate of Non Military Service**

### ORIGINAL GRANTOR ON TRUST DEED:

**David William Smith and Teri Lynn Smith, as tenants by the entirety**

### ORIGINAL BENEFICIARY ON TRUST DEED:

**Mortgage Electronic Registration Systems, Inc.**

ATE  
#101

WHEN RECORDED MAIL TO:

**Executive Trustee Services, LLC**  
**2255 North Ontario Street, Suite 400**  
**Burbank, California 91504-3120**  
**(818) 260-1600 phone (818) 260-1850 fax**

Space above line for Recorder's Use

T.S. NO.: OR-182525-C LOAN NO.: 0685563977

**AFFIDAVIT OF MAILING NOTICE OF SALE**

STATE OF California} SS  
COUNTY OF Los Angeles}

I, Cris Navarro Secured Outsourcing, being first duly sworn, depose, say and certify that:  
At all times hereinafter mentioned I was and now am a resident of the State of California, a competent person over the age of eighteen years and not the beneficiary or his successor in interest named in the attached original or copy of notice of sale given under the terms of that certain trust deed described in said notice.

I gave notice of sale of the real property described in the attached notice of sale by mailing a copy thereof by registered or certified mail and regular mail to each of the following named person's at their last known address, to-wit:

**NAME & ADDRESS**

**CERTIFIED NO.**

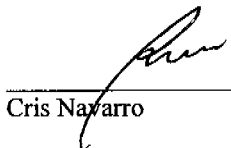
**SEE ATTACHED**

Said person(s) include the grantor in the trust deed, any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice, and any persons requesting notice as provided in ORS 86.785, and all junior lien holders as provided in ORS 86.740.  
Notice as required by and in accordance with ORS Chapter 646 was provided to Grantor and successor in interest, if any.

Each of the notices so mailed was certified to be a true copy of the original notice of sale by Maria DeBelen, for LENDER PROCESSING SERVICES - DEFAULT TITLE, the trustee named in said notice; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States mail Los Angeles California, on 6/1/2009. Each of said notices was mailed after the notice of default and election to sell described in said Notice of Sale was recorded and at least 120 days before the day fixed in said notice by the trustee for the trustee's sale.

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

STATE California} SS  
COUNTY Los Angeles}

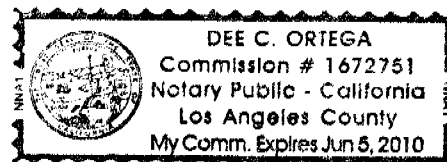
  
Cris Navarro

On 6/1/09 before me, Dee C. Ortega, a Notary Public personally appeared Cris Navarro who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature   
Dee C. Ortega, Notary Public



AFFIDAVIT OF MAILING

Date: **6/1/2009**

T.S. No.: **OR-182525-C**

Loan No.: **0685563977**

(21)

6

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES

The declarant, whose signature appears below, states that (s)he is over the age of eighteen (18) years; is employed in Los Angeles County at Executive Trustee Services, LLC, and is not a party to the within action and that on 6/1/2009 , (s)he personally served the Notice, of which the annexed is a true copy, by depositing in the United States Mail a copy of such Notice in a sealed envelope, certified or registered mail and first class, with postage prepaid, such envelope being addressed to the person(s) named at the addresses below.

DAVID WILLIAM SMITH  
1130 MAPLE ST  
✓ KLAMATH FALLS, OR 97601-4243  
71006309264091276630

TERI LYNN SMITH  
1130 MAPLE ST  
✓ KLAMATH FALLS, OR 97601-4243  
71006309264091276647

DAVID W. SMITH  
1130 MAPLE ST  
✓ KLAMATH FALLS, OR 97601-4243  
71006309264091276654

TERI LYN SMITH  
1130 MAPLE ST  
✓ KLAMATH FALLS, OR 97601-4243  
71006309264091276661

DAVID W. SMITH  
5658 LATHROP DR  
✓ SAN JOSE, CA 95123-2050  
71006309264091276678

TERI LYN SMITH  
5658 LATHROP DR  
✓ SAN JOSE, CA 95123-2050  
71006309264091276685

DAVID WILLIAM SMITH  
5658 LATHROP DR  
✓ SAN JOSE, CA 95123-2050  
71006309264091276692

TERI LYNN SMITH  
5658 LATHROP DR  
✓ SAN JOSE, CA 95123-2050  
71006309264091276708

DAVID WILLIAM SMITH  
1917 CYPRESS CT.  
✓ OAKLEY, CA 94561  
71006309264091276586

TERI LYNN SMITH  
1917 CYPRESS CT.  
✓ OAKLEY, CA 94561  
71006309264091276593

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
P.O. BOX 2026  
FLINT, MI 48501-2026  
71006309264091276609

GMAC MORTGAGE, LLC  
C/O MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
P.O. BOX 2026  
FLINT, MI 48501-2026  
71006309264091276616

GMAC MORTGAGE, LLC  
7 CARNEGIE PLAZA  
CHERRY HILL, NJ 08003  
71006309264091276623

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

X

  
Affiant **Cris Navarro**

**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 1130 MAPLE ST  
KLAMATH FALLS, Oregon 97601-4243

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 to pay as of 5/13/2009 to bring your mortgage loan current was \$8,489.53. 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 (818) 260-1600 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: Executive Trustee Services, LLC, 2255 North Ontario Street, Suite 400, Burbank, California 91504-3120.

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

Date and Time: Monday, October 5, 2009 at 10:00 AM

Place: On the front steps of the Circuit Court, 316 Main St, in the City of Klamath Falls, County of Klamath, Oregon

**THIS IS WHAT YOU CAN DO  
TO STOP THE SALE:**

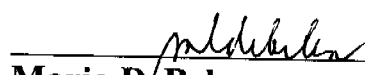
1. You can pay the amount past due or correct any other default, up to five days before the sale.
2. You can refinance or otherwise pay off the loan in full anytime before the sale.
3. You can call GMAC MORTGAGE, LLC FKA GMAC MORTGAGE CORPORATION at (800) 850-4622 or (800) 799-9250 to find out if your 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 1-888-610-8764. 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 [www.osbar.org/public/ris/ris.html](http://www.osbar.org/public/ris/ris.html). 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.lawhelp.org/program/694/index.cfm>.

**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 questions, talk to a lawyer or one of the organizations mentioned above before signing.

Dated: 5/13/2009

**Executive Trustee Services, LLC  
As Agent for Trustee**

  
**Maria DeBelen**  
**(818) 260-1600**

## TRUSTEE'S NOTICE OF SALE

Loan No: 0685563977  
T.S. No.: OR-182525-C

Reference is made to that certain deed made by, DAVID WILLIAM SMITH and TERI LYNN SMITH, AS TENANTS BY THE ENTIRETY as Grantor to FIRST AMERICAN TITLE COMPANY OF OREGON, as trustee, in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR GMAC MORTGAGE CORPORATION, as Beneficiary, dated 6/9/2006, recorded 7/3/2006, in official records of Klamath County, Oregon in book/reel/volume No. at page No. , fee/file/instrument/microfile/reception No. M06-13471 (indicated which), covering the following described real property situated in said County and State, to-wit:

**APN: R532294**  
SEE ATTACHED EXHIBIT "A"

Commonly known as:  
1130 MAPLE ST  
KLAMATH FALLS, Oregon 97601-4243

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and notice has been recorded pursuant to Section 86.735(3) of Oregon Revised Statutes: the default for which the foreclosure is made is the grantor's:

Unpaid principal balance of \$217,716.53; plus accrued interest plus impounds and / or advances which became due on 2/1/2009 plus late charges, and all subsequent installments of principal, interest, balloon payments, plus impounds and/or advances and late charges that become payable.

Monthly Payment \$1,452.86

Monthly Late Charge \$72.64

By this reason of said default the beneficiary has declared all obligations secured by said deed of trust immediately due and payable, said sums being the following, to-wit: The sum of \$217,716.53 together with interest thereon at the rate of 6.75 % per annum from 1/1/2009 until paid; plus all accrued late charges thereon; and all trustee's fees, foreclosure costs and any sums advanced by the beneficiary pursuant to the terms of said deed of trust.

Whereof, notice hereby is given that **LSI TITLE COMPANY OF OREGON, LLC**, the undersigned trustee will on **10/5/2009** at the hour of **10:00 AM**, Standard of Time, as established by section 187.110, Oregon Revised Statutes, at **On the front steps of the Circuit Court, 316 Main St, in the City of Klamath Falls, County of Klamath, Oregon** 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 had or had power to convey at the time of the execution by him of the 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 Section 86.753 of Oregon Revised Statutes has the right to have the foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of said principal as would not then be due had no default occurred), together with the costs, trustee's and attorney's fees and curing any other default complained of in the Notice of Default by tendering the performance required under the obligation or trust deed, at any time prior to five days before the date last set for sale.



Loan No: 0685563977  
T.S. No: OR-182525-C

### TRUSTEE'S NOTICE OF SALE

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes plural, the word "grantor" includes any successor in interest to the grantor as well as any other persons owing an obligation, the performance of which is secured by said trust deed, the words "trustee" and "beneficiary" include their respective successors in interest, if any.

Dated: 5/13/2009

LSI TITLE COMPANY OF OREGON, LLC  
C/O Executive Trustee Services, LLC at 2255 North  
Ontario Street, Suite 400 Burbank, California 91504-  
3120  
Sale Line: 714-730-2727


Cindy Sandoval

Signature By

Authorized Signatory

State of California ) ss.  
County of Los Angeles)

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

  
\_\_\_\_\_  
Maria DeBelen  
Trustee Sale Officer

**Executive Trustee Services, LLC**  
**2255 North Ontario Street, Suite 400**  
**Burbank, California 91504-3120**  
**(818) 260-1600**

Date: 5/13/2009

T.S. Number: OR-182525-C

Loan Number: 0685563977

### **DEBT VALIDATION NOTICE**

1. The enclosed document relates to a debt owed to the current creditor:

#### **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.**

You may send us a written request for the name and address of the original creditor, if different from the current creditor, and we will obtain and mail the information to you.

2. As of **5/13/2009** the total delinquency owed was **\$8,489.53**, but this amount will increase until the delinquency has been fully cured.
3. As of **5/13/2009** the amount required to pay the entire debt in full was **\$225,709.29** but this amount will increase daily until the debt has been fully paid.
4. You may dispute the validity of this debt, or any portion thereof, within thirty (30) days after receiving this notice. Otherwise, we will assume that the debt is valid.
5. If you notify us in writing that you dispute all or any portion of this debt within thirty (30) days after receiving this notice, we will obtain and mail to you verification of the debt, or a copy of any judgement against you.

**WE ARE ATTEMPTING TO COLLECT A DEBT, AND ANY INFORMATION  
WE OBTAIN WILL BE USED FOR THAT PURPOSE.**

TS # OR-182525-C

EXHIBIT "A"

LEGAL DESCRIPTION

The land referred to in this policy is situated in the STATE OF OREGON, COUNTY OF KLAMATH, CITY OF KLAMATH FALLS, and described as follows:

LOT 2, BLOCK 5, FIRST ADDITION TO WEST HILLS HOMES, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

OR182525C / SMITH  
ASAP# 3108634

**EXEC**

**AFFIDAVIT OF MAILING**

STATE OF OREGON

County of Multnomah

ss.

I, Lisa Paolo, being first duly sworn, depose and say that I am employed by Nationwide Process Service, Inc. On June 03, 2009, I mailed a copy of the Trustee's Notice of Sale; Exhibit "A"; and Debt Validation Notice, by First Class Mail, postage pre-paid, to occupant, pursuant to ORS 86.750(1)(b)(C).


The envelope was addressed as follows:

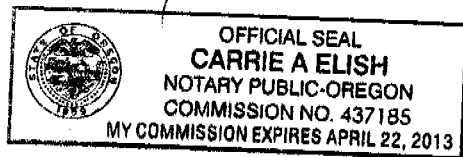
**OCCUPANT**  
**1130 Maple Street**  
**Klamath Falls, OR 97601-4243**

This mailing completes service upon an occupant at the above address with an effective date of **05/19/2009** as calculated pursuant to ORS 86.750 (1)(c).

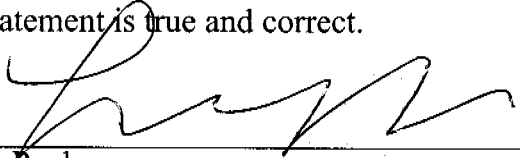
I declare under the penalty of perjury that the above statement is true and correct.

SUBSCRIBED AND SWORN BEFORE ME  
this 30 day of June, 2009  
by Lisa Paolo.

  
Notary Public for Oregon



X

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



196895

OR182525C / SMITH  
ASAP# 3108634

**EXEC****AFFIDAVIT OF POSTING**

STATE OF OREGON  
County of Klamath

ss.

I, Jake Doolin, 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; Exhibit "A"; and Debt Validation Notice upon the individuals and/or entities named below, by delivering a copy of the aforementioned documents, upon an OCCUPANT at the following "Property Address".

1130 Maple Street  
Klamath Falls, OR 97601-4243

As follows:

On 05/19/2009 at 1:00 PM, I attempted personal service at the Property Address. I received no answer at the front door and no one appeared to be home. At that time, I POSTED such true copy conspicuously on the front door, pursuant to ORS 86.750 (1)(b)(A).

On 05/21/2009 at 2:15 PM, I returned to the Property Address and, again, received no answer at the front door. At that time, I POSTED another such copy conspicuously on the front door, pursuant to ORS 86.750 (1)(b)(B).

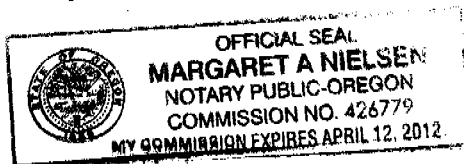
On 05/26/2009 at 9:25 AM, I returned to the Property Address and, again, received no answer at the front door. This attempt in person at the Property Address satisfies the third attempt requirement under ORS 86.750(1)(b)(C).

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

SUBSCRIBED AND SWORN BEFORE ME  
this 18<sup>th</sup> day of June, 2009  
by Jake Doolin.

*Margaret A. Nielsen*  
Notary Public for Oregon

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



196895

# 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 # 11412

Notice of Sale/David W & Teri Lynn Smith

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:

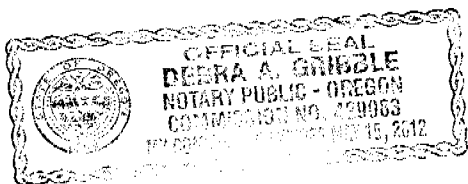
July 14, 21, 28, August 4, 2009

Total Cost: \$983.03

*Jeanine P Day*  
Subscribed and sworn by Jeanine P Day  
before me on: August 4, 2009

*Debra A Gubbe*  
Notary Public of Oregon

My commission expires May 15, 2012



### TRUSTEE'S NOTICE OF SALE

Loan No: 0685563977 T.S. No.: OR-182525-C

Reference is made to that certain deed made by, DAVID WILLIAM SMITH and TERI LYNN SMITH, AS TENANTS BY THE ENTIRETY as Grantor to FIRST AMERICAN TITLE COMPANY OF OREGON, as trustee, in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR GMAC MORTGAGE CORPORATION, as Beneficiary, dated 6/9/2006, recorded 7/3/2006, in official records of Klamath County, Oregon in book/reel/volume No. at page No. fee/file/instrument/microfile/reception No. M06-13471 (indicated which), covering the following described real property situated in said County and State, to-wit: APN: R532294 THE LAND REFERRED TO IN THIS POLICY IS SITUATED IN THE STATE OF OREGON, COUNTY OF KLAMATH, CITY OF KLAMATH FALLS, AND DESCRIBED AS FOLLOWS: LOT 2, BLOCK 5, FIRST ADDITION TO WEST HILLS HOMES, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON. Commonly known as: 1130 MAPLE ST, KLAMATH FALLS, Oregon 97601-4243.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and notice has been recorded pursuant to Section 86.735(3) of Oregon Revised Statutes; the default for which the foreclosure is made is the grantor's: Unpaid principal balance of \$217,716.53; plus accrued interest plus impounds and / or advances which became due on 2/1/2009 plus late charges, and all subsequent installments of principal, interest, balloon payments, plus impounds and/or advances and late charges that become payable. Monthly Payment \$1,452.85 Monthly Late Charge \$72.64.

By this reason of said default the beneficiary has declared all obligations secured by said deed of trust immediately due and payable, said sums being the following, to-wit: The sum of \$217,716.53 together with interest thereon at the rate of 6.75 % per annum from 1/1/2009 until paid; plus all accrued late charges thereon; and all trustee's fees, foreclosure costs and any sums advanced by the beneficiary pursuant to the terms of said deed of trust.

Whereof, notice hereby is given that LSI TITLE COMPANY OF OREGON, LLC, the undersigned trustee will on 10/5/2009 at the hour of 10:00 AM, Standard of Time, as established by section 187.110, Oregon Revised Statutes, at On the front steps of the Circuit Court, 316 Main St, in the City of Klamath Falls, County of Klamath, Oregon, 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 had or had power to convey at the time of the execution of the 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 Section 86.753 of Oregon Revised Statutes has the right to have the foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of said principal as would not then be due had no default occurred), together with the costs, trustee's and attorney's fees and curing any other default complained of in the Notice of Default by tendering the performance required under the obligation or trust deed, at any time prior to five days before the date set for sale.

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes plural, the word "grantor" includes any successor in interest to the grantor as well as any other persons owing an obligation, the performance of which is secured by said trust deed, the words "trustee" and a "beneficiary" include their respective successors in interest. Dated: 5/13/2009 LSI TITLE COMPANY OF OREGON, LLC c/o Executive Trustee Services, LLC at 2255 North Ontario Street, Suite 400 Burbank, California 91504-3120 Sale Line: 714-730-2727 Signature By Cindy Serrano Authorized Signatory ASAP# 3108634 07/14/2009, 07/21/2009, 07/28/2009, 08/04/2009 #11412 July 14, 21, 28, August 4, 2009.

**Executive Trustee Services, LLC**  
**2255 North Ontario Street, Suite 400**  
**Burbank, California 91504-3120**


TS No. **OR-182525-C**  
Loan No. **0685563977**

## **AFFIDAVIT OF NON-MILITARY SERVICE**

Marvell Carmouche, being duly sworn, deposes and says; that **DAVID W. SMITH and TERI LYN SMITH**, are (is) not now, or within the period of three months prior to the making of this affidavit, (a) in the Federal Service on active duty as a member of the Army of the United States, or the United States Navy, or the United States Air Force, the Women's volunteer Naval Reserve, or the Marine Corps., or Women's Auxiliary Marine Corps Reserve, or the Coast Guard Reserve, or the Women's Army Corps. Or as an officer of the Public Health Service, or (b) in training or being educated under the supervision of the United States preliminary to induction into the military service or (c) under orders to report for induction under the Selective Training and Service Act of 1940, or (d) a member of the Enlisted Reserves Corps under orders to report for military service, or (e) an American Citizen, serving with the force of any nation allied with the United States in the prosecution of war; within; the purview of the Soldier's and Sailor's Civil Relief Act of 1940, as amended or (f) serving in the armed forces of the United States Pursuant to the Selective Service Act of 1948.

That this affidavit is made for the above referenced Foreclosure for the purpose of inducing LSI TITLE COMPANY OF OREGON, LLC, without leave of court first obtained, to cause said property to be sold under the terms of said deed of trust pursuant to the power of sale contained therein.

Dated: 5/13/2009

By:   
Marvell Carmouche, Limited Signing Officer