

2009-014939

Klamath County, Oregon

[RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:]

First American Title Insurance Company
c/o Trustee Corps
2112 Business Center Drive, 2nd floor
Irvine, CA 92612
(949) 252-8300



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11/20/2009 03:05:42 PM

Fee: \$52.00

1st 1497042

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Trustee Sale #: OR0560313 Loan#: 501122698 Order #: 4307948

NOTICE OF DEFAULT AND ELECTION TO SELL

Pursuant to O.R.S. 86.705 et seq.

Reference is made to that certain Deed of Trust made by: **ANDREW M. HILMES AND KRISTINA L. HILMES**, as Grantor to **AMERITITLE**, as Trustee, in favor of **BCK CAPITAL INC.**, as Beneficiary, dated **06/28/2006** and **Recorded on 07/06/2006 as Document No. M06-13702**, covering the following described real property situated in **Klamath** county, state of **Oregon**, to-wit:

SEE ATTACHED EXHIBIT "A"

APN# R552244

Property Address: 4615 WINTER AVENUE, KLAMATH FALLS, OR 97603

The undersigned hereby certifies that no Assignments of the Deed of Trust by the Trustee or by the Beneficiary and no Appointments of a Successor Trustee have been made except as recorded in the records of the county or counties in which the above described real property is situated. Further, no action has been instituted to recover debt, or any part thereof, now remaining secured by the said Deed of Trust, or, if such action has been instituted, such action has been dismissed except as permitted by O.R.S. 86-735 (4).

There is a default by the Grantor or other person owing an obligation, the performance of which is secured by said Deed of Trust, or by their successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision. The default for which foreclosure is made is Grantor's failure to pay when due the following sums:

1. The monthly payment of **\$899.99** beginning on **06/01/2009**, and monthly late charges in the amount of **\$45.00** to-date; plus advances of \$.

By reason of said default, the Beneficiary has declared all sums owing on the obligation secured by said Deed of Trust immediately due and payable, said sums being the following:

1. Principal of **\$132,832.21** and accruing interest as of **05/01/2009** at the rate of **6.875%** per annum from **05/01/2009** until paid.
2. **\$270.00** in late charges.
3. Together with title expenses, costs, Trustee's fees and attorney's fees incurred herein by reason of said default; and any further sums advanced by the

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Beneficiary for the protection of the above described real property and its interest therein.

Notice hereby is given that the Beneficiary and Trustee, by reason of said default, have elected and do hereby elect to foreclosure said Deed of Trust by advertisement and sale pursuant to O.R.S. 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the said described property which the Grantor had, or had the power to convey, at the time of execution by Grantor of the Deed of Trust, together with any interest the Grantor or his successors in interest acquired after the execution of the Deed of Trust, to satisfy the obligations secured by said Deed of Trust and the expenses of the sale, including the compensations of the Trustee as provided by law, and the reasonable fees of trustee's attorneys.

Said sale will be held at the hour of **10:00AM** in accord with the standard of time established by O.R.S. 187.110 on **04/01/2010** at the following place: **ON THE FRONT STEPS OF THE CIRCUIT COURT, 316 MAIN STREET IN THE CITY OF KLAMATH FALLS, COUNTY OF KLAMATH, OR**, County of Klamath, State of Oregon, which is the hour, date and place set for said sale.

Other than as shown of record, neither the said Beneficiary nor the said Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the Trustee in the Deed of Trust, or of any successor in interest to the grantor or of any lessee or other person in possession of or occupying the property, except; **NONE**

Notice is further given that any person named in O.R.S. 86.753 has the right, at any time prior to five (5) days before the date last set for the sale, to have this foreclosure proceeding dismissed and the Deed of Trust reinstated by payment to the Beneficiary of the entire amount then due (other than such portion of the principal as would not then be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation of Deed of Trust, 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 Deed of Trust, together with Trustee's and attorney's fees not exceeding the amounts provided by said O.R.S. 86.753.

In construing this notice, the singular gender 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 Deed of Trust, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Dated: NOV 19 2009

FIRST AMERICAN TITLE INSURANCE COMPANY, as Successor Trustee


By: **MARIA DELATORRE, ASST SEC**

C/O TRUSTEE CORPS
2112 Business Center Dr, 2nd Floor
Irvine, CA 921612
PH 949-252-8300
FAX 949-252-8330


State of California

County of Orange

On NOV 19 2009 before me, Laura A. Kennedy, (name and title of the officer), personally appeared MARIA DE LA TORRE, 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 acknowledgement 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 OR PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)

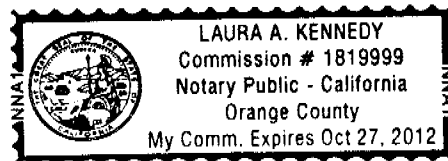


Exhibit "A"

Real property in the County of Klamath, State of Oregon, described as follows:

A PARCEL OF LAND IN THE SOUTH HALF OF THE SOUTHEAST QUARTER OF NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, WHICH LIES NORTH 331.4 FEET FROM THE SOUTHWEST CORNER THEREOF; THENCE NORTH 88° 57' EAST 98.55 FEET; THENCE NORTH 0° 43' WEST 331.3 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE SOUTH 88° 58' WEST ALONG THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 98.55 FEET TO THE WEST LINE OF SAID SOUTH HALF OF SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE SOUTH ALONG SAID WEST LINE A DISTANCE OF 331.3 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THE SOUTH 30 FEET DEEDED TO KLAMATH COUNTY FOR WINTER AVENUE, BY DEED RECORDED SEPTEMBER 01, 1960 IN VOLUME 323 PAGE 683, DEED RECORDS OF KLAMATH COUNTY, OREGON.

Tax Parcel Number: R552244