

NJC 83754

2010-000614  
Klamath County, Oregon



AFTER RECORDING RETURN TO:  
Michael P. Kearney, P.C., Attorney at Law  
800 Willamette Street, Suite 800  
P.O. Box 1758  
Eugene, OR 97440-1758

01/19/2010 11:26:38 AM

Fee: \$47.00

**NOTICE OF DEFAULT AND ELECTION TO SELL**

Reference is made to that certain Trust Deed (herein the "Trust Deed") made by Mark A. Losko<sup>c</sup> and Julie A. Losko<sup>c</sup>, as Grantor, to Western Title & Escrow Company of Lane County, Trustee, with Paul W. Scharn and Scott A. Scharn and Debra Rae Baas and Marilyn L. Spores, each as to an undivided 1/4 interest as tenants in common, as the Beneficiary recorded September 25, 2006, in the Microfilm Records of Klamath County, Volume 2006, page 019190, covering real property described on the attached Exhibit A (herein the "real property").

The real property is located at the address commonly known as 139834 Dorothy Lane, Crescent Lake, OR 97733.

A Substitution of Trustee dated December 3, 2008 was recorded as Reception No. 2010-000613, which provides that Michael P. Kearney, Attorney at Law, was substituted as Trustee under such Trust Deed.

The Successor Trustee hereby certifies that no assignments of the Trust Deed by the Trustee or by the Beneficiary and no appointments of a successor-trustee have been made except as recorded in the mortgage records of the county in which the above described real property is situated; further, that no action, suit or proceeding has been instituted to recover the debt, or any part thereof, now remaining secured by the Trust Deed, or, if such action or proceeding has been instituted, such action or proceeding has been dismissed as permitted by ORS 86.735 (4).

There is a default by the Grantor or other person owing an obligation, the performance of which is secured by the Trust Deed 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 sum:

Payment of \$120,000, which was due and payable on September 25, 2008 plus interest at the rate of 8.5 % per annum from September 18, 2006 and continuing each day thereafter through the date of this Notice of Default and Election to Sell.

By reason of this default, the beneficiary has declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, which are:

The sum of \$120,000 plus accrued interest at the rate of 8.5% per annum, late charges, Trustee fees, attorney fees and costs of foreclosure from September 18, 2006 to the date of payment.

Notice is hereby given that the beneficiary and Successor Trustee, by reason of this default, have elected and do hereby elect to foreclose the Trust Deed by advertisement and sale pursuant to Oregon Revised Statutes Sections 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the described property which the Grantor had, or had the power to convey, at the time of the execution by it of the Trust Deed, together with any interest Grantor or Grantor's successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by the trust deed and the expenses of the sale, including the compensations of the Successor Trustee as provided by law, and the reasonable fees of Successor Trustee's attorneys.

The sale will be held at the hour of 10:00 a.m., Standard Time as established by Section 187.110 of Oregon Revised Statutes on June 28, 2010, at the following place: inside the front entrance of the Klamath County Courthouse, 316 Main Street, City of, Klamath Falls, County of Klamath, State of Oregon, which is the hour, date and place fixed by the Trustee for the sale.

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Other than as shown of record, neither the Beneficiary nor the Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property herein described subsequent to the interest of the Trustee in the Trust Deed, or of any successor in interest to the Grantor or of any lessee or other person in possession of or occupying the property, except:

Name and Last Known Address

Mark A. ~~Losko~~ Losco  
1670 West 11<sup>th</sup> Avenue  
Eugene, OR 97402

Julie A. ~~Losko~~ Losco  
330 Crest Drive  
Eugene, OR 97405

Notice is further given that any person named in Section 86.753 of Oregon Revised Statutes 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 Trust Deed reinstated by payment to the Beneficiary of the entire amount then due (other than such portion of 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 the 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 the Successor Trustee's and attorney fees not exceeding the amounts provided by Section 86.753 of Oregon Revised Statutes.

In construing this Notice, the masculine gender includes the feminine and neuter, the singular includes the 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 the Trust Deed, the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

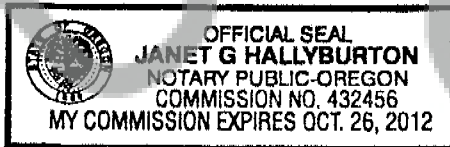
DATED: January 15, 2010

*Michael P. Kearney*

Michael P. Kearney, Successor Trustee  
Michael P. Kearney, P.C.  
800 Willamette Street, Suite 800, Eugene, OR 97401

STATE OF OREGON )  
 )  
 ) ss.  
County of Lane )

On this 15<sup>th</sup> day of January, 2010, personally appeared before me the foregoing Michael P. Kearney, as Trustee, to me known to be the individual described in and who executed the foregoing instrument, and who acknowledged to me that he signed the same freely and voluntarily, for the uses and purposes therein mentioned.



*Janet G. Hallyburton*  
Notary Public for Oregon

## EXHIBIT A

A tract of land situated in the NW1/4 SE1/4 of Section 18, Township 24 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at an iron rod on the East line of SE1/4 NW1/4 of SE1/4 of Section 18, said rod being South thereon a distance of 840.0 feet, from an iron rod marking the Southeast corner of the SE1/4 SW1/4 NE1/4 of Section 18; thence West a distance of 289.10 feet, more or less, to an iron rod; thence continuing West along this line a distance of 4.0 feet, more or less, to the margin of Crescent Creek; thence continuing West along this line a distance of 20.0 feet, more or less, to the centerline of said creek; thence Northerly along said centerline to the intersection of said centerline with a line running East parallel with and 60.0 feet North of the 1<sup>st</sup> course thence East along this line a distance of 15.0 feet, more or less, to the margin of Crescent Creek; thence continuing East along this line a distance of 6.0 feet, more or less, to an iron rod; thence continuing East along this line a distance of 288.20 feet; more or less, to the East line of the SE1/4 NW1/4 SE1/4 of Section 18; thence South along this line a distance of 60.00 feet, to the point of beginning.