

2010-002871

Klamath County, Oregon



00080749201000028710300302

03/03/2010 11:30:42 AM

Fee: \$202.00

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 67296

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

COVER SHEET

DOCUMENT:

Affidavit of Mailing /Copy of Trustees Notice of Sale

Affidavit of Service/Posting

Affidavit of Publication

Affidavit of Non Military Service

Affidavit of Compliance

ORIGINAL GRANTOR ON TRUST DEED:

Beverly Ann McCluskey

ORIGINAL BENEFICIARY ON TRUST DEED:

Mortgage Electronic Registration Systems, Inc.

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON PRESENTING THE
ATTACHED INSTRUMENT FOR RECORDING. ANY ERRORS CONTAINED IN THE COVER
SHEET DO NOT AFFECT THE TRANSACTION(S) CONTAINED IN THE INSTRUMENT
ITSELF

ATE 202

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-102418

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:

Beverly A. McCluskey
10109 Wright Avenue
Klamath Falls, OR 97603

Falcon Heights
Condominium Association,
Inc.
10301 Preddy Avenue
Klamath Falls, OR 97603

Falcon Heights
Condominium Association,
Inc.

R/A: W. Louellyn Kelly
135 South 9th Street
Klamath Falls, OR 97601

Falcon Heights
Condominium Association,
Inc.

P.O. Box 127
Klamath Falls, OR 97601

Internal Revenue Service
Advisory M/S W245
915 2nd Avenue
Seattle, WA 98174

Fred Long
Chapter 13 Trustee
P.O. Box 467
Eugene, OR 97440

Michael Spencer
439 Pine St
Klamath Falls, OR 97601

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 November 3, 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.



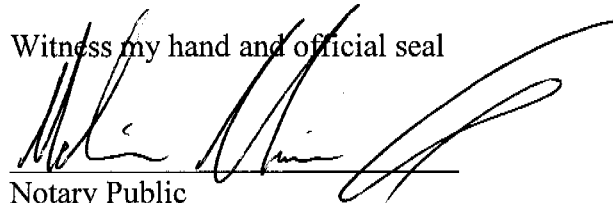
Kelly D. Sutherland

State of Washington)

County of Clark)

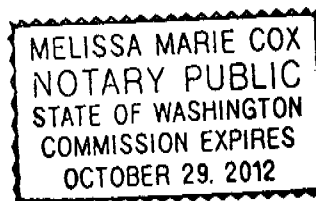
On this 2nd day of March, in the year 2010, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal



Notary Public

My Commission Expires: 10/29/12



AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-102418

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:

Internal Revenue Service
M/S W246, Lien Desk
915 – 2nd Avenue
Seattle, WA 98174

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 November 16, 2009. As evidenced by signed return receipt, each Notice was actually received by the named party at least 25 days before the day of Trustee's Sale, as provided in ORS 86.742(1).

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)

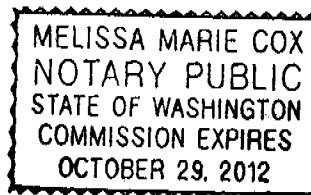
On this 2nd day of March, in the year 2010, before me the undersigned, a Notary Public in and for said County and State, personally appeared Kelly D. Sutherland personally known to me to be the person whose name is subscribed to this instrument and acknowledged that he executed.

Witness my hand and official seal



Notary Public

My Commission Expires: 10/29/12



THE
WALZ
CERTIFIED
MAILER™

FROM

WALZ™

FORM #35683 VERSION: 05/09
U.S. PAT. NO. 5,501,393

7160 3901 9848 5045 4613

Label #1
09-102418
Internal Revenue Service
M/S W246, Lien Desk
915 - 2nd Avenue
Seattle, WA 98174

Label #2

Label #3

09-102418
Internal Revenue Service
M/S W246, Lien Desk
915 - 2nd Avenue
Seattle, WA 98174

TO:

Internal Revenue Service
M/S W246, Lien Desk
915 - 2nd Avenue
Seattle, WA 98174

SENDER:

Shapiro & Sutherland, LLC

REFERENCE: 09-102418

0-1

PS Form 3800, January 2005

RETURN
RECEIPT
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service

**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

11-16-09

A FOLD AND TEAR THIS WAY → OPTIONAL

B Label #5

Certified Article Number

7160 3901 9848 5045 4613

SENDER'S RECORD

09-102418
Internal Revenue Service
M/S W246, Lien Desk
915 - 2nd Avenue
Seattle, WA 98174

Charge
Amount:

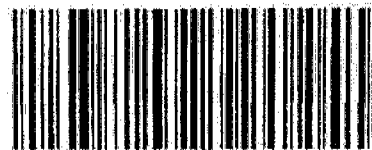
Charge
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7160 3901 9848 5045 4613

C 2. Article Number



7160 3901 9848 5045 4613

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Internal Revenue Service
M/S W246, Lien Desk
915 - 2nd Avenue
Seattle, WA 98174

09-102418

Shapiro & Sutherland, LLC

PS Form 3811, January 2005

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes
☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

[Home](#) | [Help](#) | [Sign In](#)[Track & Confirm](#)[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: **7160 3901 9848 5045 4613**
Status: **Delivered**

Your item was delivered at 10:17 am on November 19, 2009 in SEATTLE, WA 98174. A proof of delivery record may be available through your local Post Office for a fee.

Additional information for this item is stored in files offline.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)[Restore Offline Details >](#)[Return to USPS.com Home >](#)[Site Map](#)[Customer Service](#)[Forms](#)[Gov't Services](#)[Careers](#)[Privacy Policy](#)[Terms of Use](#)[Business Customer Gateway](#)

Copyright© 2010 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA



United States Postal Service
Eagle logo



United States Postal Service
Eagle logo

TRUSTEE'S NOTICE OF SALE

A default has occurred under the terms of a trust deed made by Beverly Ann McCluskey, as grantor to First American Title of Oregon, as Trustee, in favor of Mortgage Electronic Registration Systems, Inc., as nominee for BCK Capital Inc., as Beneficiary, dated July 21, 2005, recorded July 26, 2005, in the mortgage records of Klamath County, Oregon, in Book Vol. M05, at Page 57874, beneficial interest having been assigned to EverHome Mortgage Company, as covering the following described real property:

Unit 10109, Wright Avenue, FALCON HEIGHTS CONDOMINIUM STAGE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

COMMONLY KNOWN AS: 10109 Wright 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 \$950.48, from February 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 that the trust deed secures immediately due and payable, said sum being the following, to-wit:

\$108,430.78, together with interest thereon at the rate of 7.25% per annum 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.

WHEREFORE, notice hereby is given that the undersigned trustee will on March 8, 2010, 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 to any person named in ORS 86.753 that the right exists, at any time that is not later than five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by paying 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 fees 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.

NOTICE TO TENANTS

If you are a tenant of this property, foreclosure could affect your rental agreement. A purchaser who buys this property at a foreclosure sale has the right to require you to move out after giving you notice of the requirement.

If you do not have a fixed-term lease, the purchaser may require you to move out after giving you a 30-day notice on or after the date of the sale.

If you have a fixed-term lease, you may be entitled to receive after the date of the sale a 60-day notice of the purchaser's requirement that you move out.

To be entitled to either a 30-day or 60-day notice, you must give the trustee of the property written evidence of your rental agreement at least 30 days before the date first set for the sale.

If you have a fixed-term lease, you must give the trustee a copy of the rental agreement. If you do not have a fixed-term lease and cannot provide a copy of the rental agreement, you may give the trustee other written evidence of the existence of the rental agreement. The date that is 30 days before the date of the sale is February 6, 2010. The name of the trustee and the trustee's mailing address are listed on this notice.


Federal law may grant you additional rights, including a right to a longer notice period. Consult a lawyer for more information about your rights under federal law.

You have the right to apply your security deposit and any rent you prepaid toward your current obligation under your rental agreement. If you want to do so, you must notify your landlord in writing and in advance that you intend to do so.

If you believe you need legal assistance with this matter, you may contact the Oregon State Bar and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included with this notice.

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: 11-30-09

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

09102418 / MCCULUSKEY
ASAP# 3332106

SHAPOR

AFFIDAVIT OF MAILING

STATE OF OREGON

County of Multnomah

ss.

I, Sarah Ruth Tasko, being first duly sworn, depose and say that I am employed by Nationwide Process Service, Inc. On November 17, 2009, I mailed a copy of the Trustee's Notice of Sale, by First Class Mail, postage pre-paid, to occupant, pursuant to ORS 86.750(1)(b)(C).

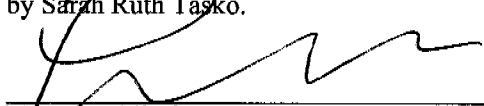
The envelope was addressed as follows:

OCCUPANT
10109 Wright Avenue
Klamath Falls, OR 97603

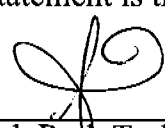
This mailing completes service upon an occupant at the above address with an effective date of **11/06/2009** as calculated pursuant to ORS 86.750 (1)(c).

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

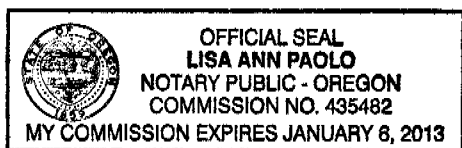
SUBSCRIBED AND SWORN BEFORE ME
this 17 day of November, 20 09
by Sarah Ruth Tasko.


Notary Public for Oregon

X



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



211160

TRUSTEE'S NOTICE OF SALE

KK
A default has occurred under the terms of a trust deed made by Beverly Ann McCluskey, as grantor to First American Title of Oregon, as Trustee, in favor of Mortgage Electronic Registration Systems, Inc., as nominee for BCK Capital Inc., as Beneficiary, dated July 21, 2005, recorded July 26, 2005, in the mortgage records of Klamath County, Oregon, in Book Vol. M05, at Page 57874, beneficial interest having been assigned to EverHome Mortgage Company, as covering the following described real property:

Unit 10109, Wright Avenue, FALCON HEIGHTS CONDOMINIUM STAGE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

COMMONLY KNOWN AS: 10109 Wright 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 \$950.48, from February 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 that the trust deed secures immediately due and payable, said sum being the following, to-wit:

\$108,430.78, together with interest thereon at the rate of 7.25% per annum 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.

WHEREFORE, notice hereby is given that the undersigned trustee will on March 8, 2010, 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 to any person named in ORS 86.753 that the right exists, at any time that is not later than five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by paying 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

CK
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 fees 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.

NOTICE TO TENANTS

If you are a tenant of this property, foreclosure could affect your rental agreement. A purchaser who buys this property at a foreclosure sale has the right to require you to move out after giving you notice of the requirement.

If you do not have a fixed-term lease, the purchaser may require you to move out after giving you a 30-day notice on or after the date of the sale.

If you have a fixed-term lease, you may be entitled to receive after the date of the sale a 60-day notice of the purchaser's requirement that you move out.

To be entitled to either a 30-day or 60-day notice, you must give the trustee of the property written evidence of your rental agreement at least 30 days before the date first set for the sale.

If you have a fixed-term lease, you must give the trustee a copy of the rental agreement. If you do not have a fixed-term lease and cannot provide a copy of the rental agreement, you may give the trustee other written evidence of the existence of the rental agreement. The date that is 30 days before the date of the sale is February 6, 2010. The name of the trustee and the trustee's mailing address are listed on this notice.


Federal law may grant you additional rights, including a right to a longer notice period. Consult a lawyer for more information about your rights under federal law.

You have the right to apply your security deposit and any rent you prepaid toward your current obligation under your rental agreement. If you want to do so, you must notify your landlord in writing and in advance that you intend to do so.

If you believe you need legal assistance with this matter, you may contact the Oregon State Bar and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included with this notice.

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: 11-02-09

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 09-102418

09102418 / MCCULUSKEY
ASAP# 3332106

SHAPOR

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 upon the individuals and/or entities named below, by delivering a copy of the aforementioned documents, upon an OCCUPANT at the following "Property Address":

**10109 Wright Avenue
Klamath Falls, OR 97603**

As follows:

On 11/06/2009 at 2:10 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 11/09/2009 at 9:12 AM, 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).

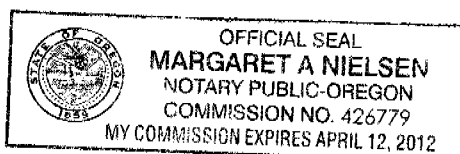
On 11/11/2009 at 9:45 AM, I returned to the Property Address and, again, received no answer at the front door. This attempt in person at the Property Address satisfies the third attempt requirement under ORS 86.750(1)(b)(C).

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

SUBSCRIBED AND SWORN BEFORE ME
this 17th day of November, 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
3332106



211160

09-102418

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 # 11833

Trustee's Notice of Sale

McCluskey

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:

December 09, 16, 23, 30, 2009

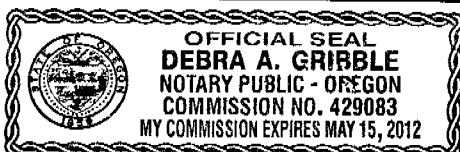
Total Cost: \$1,387.15

Jeanine P Day

Subscribed and sworn by Jeanine P Day
before me on: December 30, 2009

Debra A Gribble
Notary Public of Oregon

My commission expires May 15, 2012



TRUSTEE'S NOTICE OF SALE TS No.: 09-102418

A default has occurred under the terms of a trust deed made by Beverly Ann McCluskey, as grantor to First American Title of Oregon, as Trustee, in favor of Mortgage Electronic Registration Systems, Inc., as nominee for BCK Capital Inc., as

Beneficiary, dated July 21, 2005, recorded July 26, 2005, in the mortgage records of Klamath County, Oregon, in Book Vol. M05, at Page 57874, beneficial interest having been assigned to EverHome Mortgage Company, as covering the following described real property: Unit 10109, Wright Avenue, FALCON HEIGHTS CONDOMINIUM STAGE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. COMMONLY KNOWN AS: 10109 Wright 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 \$950.48, from February 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 that the trust deed secures immediately due and payable, said sum being the following, to-wit: \$108,430.78, together with interest thereon at the rate of 7.25% per annum 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.

WHEREFORE, notice hereby is given that the undersigned trustee will on March 8, 2010, 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 to any person named in ORS 86.753 that the right exists, at any time that is not later than five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by paying 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 fees and attorney's fees not exceeding the amounts provided by said ORS 86.753.

2009

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. **NOTICE TO TENANTS** If you are a tenant of this property, foreclosure could affect your rental agreement. A purchaser who buys this property at a foreclosure sale has the right to require you to move out after giving you notice of the requirement. If you do not have a fixed-term lease, the purchaser may require you to move out after giving you a 30-day notice on or after the date of the sale. If you have a fixed-term lease, you may be entitled to receive after the date of the sale a 60-day notice of the purchaser's requirement that you move out. To be entitled to either a 30-day or 60-day notice, you must give the trustee of the property written evidence of your rental agreement at least 30 days before the date first set for the sale. If you have a fixed-term lease, you must give the trustee a copy of the rental agreement. If you do not have a fixed-term lease and cannot provide a copy of the rental agreement, you may give the trustee other written evidence of the existence of the rental agreement. The date that is 30 days before the date of the sale is February 6, 2010. The name of the trustee and the trustee's mailing address are listed on this notice. Federal law may grant you additional rights, including a right to a longer notice period. Consult a lawyer for more information about your rights under federal law. You have the right to apply your security deposit and any rent you prepaid toward your current obligation under your rental agreement. If you want to do so, you must notify your landlord in writing and in advance that you intend to do so. If you believe you need legal assistance with this matter, you may contact the Oregon State Bar and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included with this notice. 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: 11/02/09 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 09-102418 ASAP# 3332106 12/06/2009, 12/16/2009, 12/23/2009, 12/30/2009 #11833 December 9, 16, 23, 30, 2009.

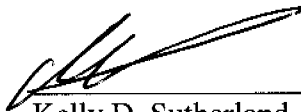
AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
Telephone:(360) 260-2253
09-102418

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 Beverly Ann McCluskey, as grantor, conveyed to First American Title of Oregon, as trustee, certain real property in Klamath County, Oregon; which said trust deed was dated July 21, 2005, and recorded July 26, 2005, in the mortgage records of said county, in Book No. Vol. M05, at Page 57874, thereafter a Notice of Default with respect to said trust deed was recorded November 2, 2009, as Document/Instrument/Recorder's Fee No. 2009-14123, 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 March 8, 2010. 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

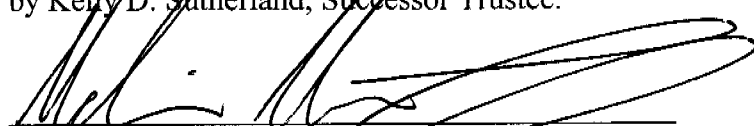
2nd

day of

March

, 20 10.

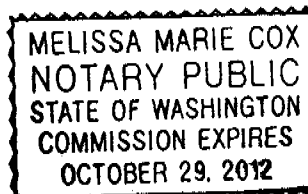
by Kelly D. Sutherland, Successor Trustee.



Notary Public for Washington

My commission expires

10/29/12



Department of Defense Manpower Data Center

Oct-30-2009 08:54:24



Military Status Report
Pursuant to the Service Members Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
MCCLUSKEY	BEVERLY	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

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 Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon

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 DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as 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 status by contacting that person's Service via the "defenseink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional 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 **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:R18V0CGM0B

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-102418

TRUSTEE'S AFFIDAVIT AS TO COMPLIANCE TO ORS 86.737

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 Beverly Ann McCluskey as grantor to First American Title of Oregon as trustee, in which Mortgage Electronic Registration Systems, Inc., as nominee for BCK Capital Inc. is beneficiary, recorded on July 26, 2005, in the mortgage records of Klamath County, Oregon in Vol. M05, at Page 57874, covering the following described real property situated in said county:

Unit 10109, Wright Avenue, FALCON HEIGHTS CONDOMINIUM STAGE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

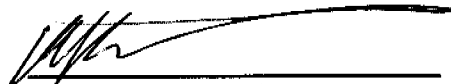
Commonly known as: 10109 Wright Avenue, Klamath Falls, OR 97603

I hereby certify that on November 3, 2009, the attached notice of risk of loss and loan modification request form 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:

Beverly A. McCluskey
10109 Wright Avenue
Klamath Falls, OR 97603

Occupant(s)
10109 Wright Avenue
Klamath Falls, OR 97603

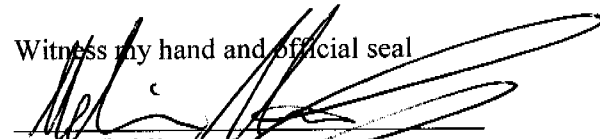
The word "trustee" as used in this affidavit means any successor-trustee to the trustee named in the trust deed first mentioned above.



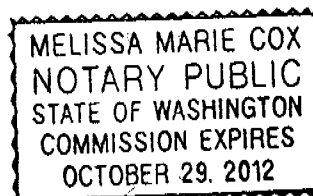
Kelly D. Sutherland

State of Washington)
)
County of Clark)

On this 2nd day of March, in the year 2010, 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 10/29/12



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 10109 Wright 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, November 3, 2009 is \$9,606.28.

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 #: 09-102418

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

March 8, 2010, 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 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 phone contact number at **1-800-SAFENET (1-800-723-3638)**. 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 **1-800-452-7636** or you may visit its website at: 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>.

Your lender may be willing to modify your loan to reduce the interest rate, reduce the monthly payments or both. You can get information about possible loan modification programs by contacting your lender at 800-669-7724. If you can't reach your lender, you may contact the trustee at the telephone number at the bottom of this notice. If you have already entered into a loan modification with your lender, it is possible that you will not be able to modify your loan again unless your circumstances have changed. Your lender is not obligated to modify your loan.

You may request to meet with your lender to discuss options for modifying your loan. During discussions with your lender, you may have the assistance of a lawyer, a housing counselor or another person of your choosing. To receive a referral to a housing counselor or other assistance available in your community, call this toll-free consumer mortgage foreclosure information number 1-800-SAFENET (1-800-723-3638). Many lenders participate in new federal loan

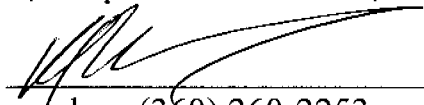
modification programs. You can obtain more information about these programs at:
<http://www.makinghomeaffordable.gov/>.

IF YOU WANT TO APPLY TO MODIFY YOUR LOAN, YOU MUST FILL OUT AND MAIL BACK THE ENCLOSED "MODIFICATION REQUEST FORM." YOUR LENDER MUST RECEIVE THE FORM BY DECEMBER 6, 2009, WHICH IS MORE THAN 30 DAYS AFTER THE DATE SHOWN BELOW.

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: November 3, 2009

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature: 

Trustee telephone number: (360) 260-2253 or 1-800-970-5647

LOAN MODIFICATION REQUEST FORM

Beverly A. McCluskey
10109 Wright Avenue
Klamath Falls, OR 97603

RE: Loan#: 9000288456

Property Address: 10109 Wright Avenue Klamath Falls, OR 97603

Pursuant to Oregon law, we are providing you with this Modification Request Form. The mortgage servicer is interested in helping you stay in your home. The mortgage servicer wants you to know there are payment assistance programs available that may help you. If you qualify under the programs, the mortgage servicer may be able to bring be able to bring your loan current and /or decrease the monthly payment so that you can avoid foreclosure.

STEP 1: GATHER THE INFORMATION NEEDED TO HELP YOU

Detailed Instructions on what you need to do to take advantage of this program are set forth below. Generally, you will need to:

- Explain in a letter requesting assistance and explaining the circumstances of the financial hardship that makes it difficult for you to pay your mortgage loan.
- Submit the required documentation of your income.

If you meet the eligibility criteria, you may be offered either a temporary or permanent payment assistance program with a decreased monthly payment. The monthly payments will be based on the Income documentation that you provide.

STEP 2: COMPLETE AND SUBMIT

Please submit all the required income documentation by no later than December 6, 2009. If you have any questions, please contact mortgage servicer at (800) 669-7724.

Act Now!

To see if you qualify for this program, send the items listed below to Mortgage Servicer no later than December 6, 2009 to the address provided below:

Shapiro & Sutherland, LLC
5509 N.E. 109th Court, Suite N
Vancouver, WA 98662

Documentation to verify all of the income of each borrower. (Including any alimony or child support that you choose to rely upon to qualify). This documentation should include:

The most recent two paystubs for all account holders, or
If self-employed, copies of your profit and loss statements, ledgers and receipts, or
If you're not current employed, your social security/unemployment benefit letters
or denial letter, or
If you're disabled, your disability benefits letters denial letter, or
If you're retired, a pension or retirement letter
Most recent Tax Return
Last two Bank Statements
Information about Assets
Evidence of any "junior" second or more liens

Additional Information on your expenses:

Medical bills (if applicable)
Childcare (if applicable)
Copy of court order for child support and/or alimony (if applicable)

If you have other types of Income, cannot locate required documents, or have questions about the documentation required, please contact us mortgage servicer at (800) 669-7724.

You must send in all required documentation by no later than December 6, 2009.

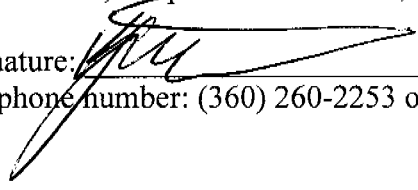
Keep a copy of documents for records. Don't sent original income documents as copies are acceptable.

NEXT STEPS: HERE'S WHAT WILL HAPPEN:

Once the mortgage servicer receives all of your documentation and verify your information, mortgage servicer will determine whether you qualify for a payment assistance program. The mortgage servicer will contact you if you do or do not qualify for a program. IF you do not qualify, the mortgage servicer will discuss other alternative with you that may help you keep you home or ease your transition to another home.

DATED: November 3, 2009

Kelly D. Sutherland, ~~Shapiro &~~ Sutherland, LLC

Trustee signature: 

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

AFTER RECORDING RETURN TO:

Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
09-102418

Affidavit of Compliance with Oregon SB 628 (2009)

County Clerk Recording Info: Volume M05, Page 57874

Grantor (name): Beverly Ann McCluskey

Trustee (name): First American Title of Oregon

Original Beneficiary (name): Mortgage Electronic Registration Systems, Inc., as nominee for BCK Capital Inc.

Assignee(s), if any (name(s)): EverHome Mortgage Company

Original Loan Amount: \$112,500.00

Borrower name(s): McCluskey, Beverly A.

Property Address: 10109 Wright Avenue, Klamath Falls, OR 97603

The undersigned is an employee of the beneficiary of the trust deed securing the above-referenced loan or of its authorized agent, at least 18 years of age and competent to testify in a court of law and, having personal knowledge of the matters set forth below, represents and avers, under the penalty of perjury, that the following selected paragraph(s) is/are true and correct (select all that apply):

- ☒ **No Request for Meeting or Loan Modification Received.** Neither the beneficiary nor its agent received the required Loan Modification Request Form from the borrower that was sent by the borrower within 30 days of the date the Trustee signed the notice required by Section 20, Chapter 19, Oregon Laws 2008 ("Law").
- ☐ **Meeting Requested But Borrower Unavailable to Schedule Meeting.** Borrower requested a meeting within 30 days of the date the Trustee signed the notice required by Section 20, chapter 19, Oregon Laws 2008 ("Law") and sent the required Loan Modification Request Form to beneficiary or its agent. The beneficiary or beneficiary's authorized agent attempted to contact the borrower by the methods contemplated by Law within 45 days of receiving the loan modification request. Borrower did not respond within 7 days of attempted contact. Accordingly, no meeting was required and no meeting occurred.
- ☐ **Meeting Occurred.** Borrower requested a meeting by telephone or in person within 30 days of the date the trustee signed the notice required by Law and sent the required Loan Modification Request Form to beneficiary or its agent. The beneficiary or beneficiary's authorized agent contacted Borrower by the methods allowed by law to schedule a meeting. A meeting was scheduled and took place between borrower and a representative of the beneficiary or beneficiary's agent -- authorized to modify the loan or able to obtain authority to modify the loan -- prior to the beneficiary determining whether or not to grant borrower's request for a loan modification.

[] **Loan Modification Requested. Borrower Deemed Ineligible. Request Denied.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary. The loan modification request was evaluated in good faith within 45 days of receipt. After considering the most current financial information provided by borrower, the beneficiary or beneficiary's agent determined that borrower is ineligible for a loan modification. Within 45 days of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower is ineligible for a loan modification.

[] **Loan Modification Requested. After Evaluation, Request Denied.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within 45 days of receipt. Within 45 days of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower's request for a loan modification was denied.

[] **Loan Modification Requested. Borrower Approved for a Modification but Subsequently Defaulted.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within 45 days of receipt. Within 45 days of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower's request for a loan modification was approved. Borrower subsequently failed to return the executed modification agreement, required down payment, or failed to timely make the payment(s) under the terms of the agreement.

[] **Loan Modification Requested. Insufficient Information Provided by Borrower. Request Denied.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within 45 days of receipt, but borrower, despite one or more additional requests from beneficiary or its agent, failed to provide sufficient information to enable beneficiary to determine in good faith whether borrower is eligible for a loan modification. Accordingly, within 45 days of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower's request for a loan modification was denied.

[] Other (Specify):

DATED: February 12, 2010

By: Michele de Craen

Typed Name: Michele de Craen

Title: Assistant Vice President

State of Florida)
 Duval) ss.
County of _____)

This instrument was acknowledged before me on February 12, 2010 by
Michele de Craen as Assistant Vice President of
EverHome Mortgage Company

I. M. Jones
Notary signature
My commission expires 10-16-12

