

2010-003805

Klamath County, Oregon



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When Recorded, Return to:

03/29/2010 02:55:35 PM

Fee: \$52.00

HILLIS CLARK MARTIN & PETERSON, P.S.

Attention: Susan E. Shin

1221 Second Avenue, Suite 500

Seattle, WA 98101-2925

1st 1538057
Loan No. 310764

Successor Trustee: Julie B. Hamilton

Trustee No. 40014.932/ses

NOTICE OF DEFAULT AND ELECTION TO SELL

Pursuant to O.R.S. 86.705 et seq. and O.R.S. 79.5010, et seq.

Reference is made to that certain trust deed made, executed, and delivered by Rudy J.W. Smidt and Elaine Smidt, as husband and wife, as Grantor, to First American Title Company, a Washington Corporation, as Trustee, to secure certain obligations in favor of Eagle Home Mortgage, Inc., a Washington corporation, as Beneficiary, dated November 29, 2005, and recorded on December 2, 2005, in the Mortgage records of Klamath County, Oregon, under File No. MO5-70353. The beneficial interest under said Trust Deed and the obligations secured thereby are presently held by Oregon Housing and Community Services Department, State of Oregon by assignment of deed of trust recorded on February 9, 2006, in the Mortgage records of Klamath County, Oregon under File No. 2006-2592. Said Trust Deed encumbers the following described real property situated in said county and state, to-wit:

Lot 4 – TRACT 1383 – SIERRA HEIGHTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

The undersigned successor trustee, Julie B. Hamilton, of Hillis Clark Martin & Peterson, P.S., hereby certifies that to the best of her knowledge no assignments of the trust deed by the trustee or by the beneficiary and no appointments of successor-trustee have been made except as recorded in the mortgage records of the county or counties in which the above described real property is situate; further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the said trust deed, or, if such action has been instituted, such action has been dismissed except 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 said trust deed, or by their successor in interest, with respect to provisions therein that authorize sale in the event of default of such provision.

Notice of Default

ND: 13000.039 4814-4763-7249v2

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The default for which foreclosure is made is grantor's failure to pay when due the following sums:

3 Monthly payments of \$1,264.07 due from October 1, 2009 through December 1, 2009:	\$3,792.21
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3 Late Charges of \$53.22, due on each payment not paid within 15 days of its due date, for monthly payments due on October 1, 2009, through December 1, 2009:	\$159.66
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3 Monthly payments of \$1,288.57 due from January 1, 2010, through March 1, 2010:	\$3,865.71
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3 Late Charges of \$53.22, due on each payment not paid within 15 days of its due date, for monthly payments due on January 1, 2010 through March 1, 2010:	\$159.66
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Advances by Lender:

Additional Late Charge Balance:	\$52.72
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Property Inspection Fees:	\$24.00
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Sub-Total of Monthly Payments, Late Charges, and Advances in arrears:	<u>\$8,053.96</u>
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TOGETHER WITH ANY DEFAULT IN THE PAYMENT OF RECURRING
OBLIGATIONS AS THEY BECOME DUE.

By reason of said defaults, the beneficiary has declared all sums owing on the
obligation secured by said trust deed immediately due and payable, said sums being the
following:

UNPAID PRINCIPAL BALANCE OF \$187,471.00 AS OF
SEPTEMBER 1, 2009, PLUS, FROM THAT DATE UNTIL PAID,
ACCRUED AND ACCRUING INTEREST AT THE RATE OF 4.9500%
PER ANNUM, PLUS ANY LATE CHARGES, ESCROW ADVANCES,
FORECLOSURE COSTS, TRUSTEE'S FEES, ATTORNEYS' FEES,
SUMS REQUIRED FOR PROTECTION OF THE PROPERTY AND
ADDITIONAL SUMS SECURED BY THE TRUST DEED.

Notice is hereby given that the beneficiary and Julie B. Hamilton, of Hillis Clark Martin & Peterson, P.S., the current trustee, by reason of said default, have elected and do hereby elect to foreclose said trust deed by advertisement and sale pursuant to ORS 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 the execution by him of the trust deed, together with any interest the grantor or his successors in interest acquired after the execution of the trust deed, to satisfy the obligations secured by said trust deed 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 **10:00 a.m.** in accord with the standard of time established by ORS 187.110 on **August 6, 2010, on the front steps of the Klamath Falls County Circuit Court, 316 Main St, Klamath Falls, County of Klamath, State of Oregon**, which is the hour, date and place last 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 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:

NONE

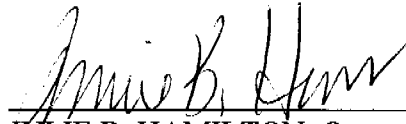
Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion 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 or trust deed, and in addition to paying said sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.753. Notice is also given that any person named in ORS 86.753 has the right to bring a court action to assert the non-existence of a default or any other defense to acceleration and sale.

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.

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

DATED this 26th day of March, 2010.

SUCCESSOR TRUSTEE:



JULIE B. HAMILTON, Oregon Bar #092650

c/o Hillis Clark Martin & Peterson, P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98010-2925
Telephone: (206) 623-1745

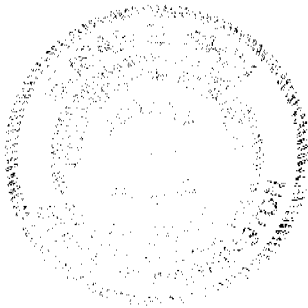
STATE OF WASHINGTON

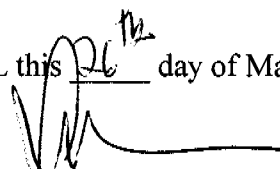
COUNTY OF KING

} ss.

On this day personally appeared before me JULIE B. HAMILTON, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 26th day of March, 2010.



Signature: 

Printed Name: Susan E. Shin
NOTARY PUBLIC in and for the State of Washington.
My Commission Expires: Dec. 29, 2012