

2010-008175

Klamath County, Oregon

Recording Requested By:  
Aspen Title & Escrow, Inc.  
525 Main Street  
Klamath Falls, OR 97601



07/07/2010 01:57:56 PM

Fee: \$102.00

When Recorded Return To:

Aspen Title & Escrow, Inc.  
525 Main Street  
Klamath Falls, OR 97601

Until requested otherwise, send all tax statements:

ATE 62128

(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 Compliance**

### ORIGINAL GRANTOR ON TRUST DEED:

**Randall Simonson and Barbara A. Simonson**

### ORIGINAL BENEFICIARY ON TRUST DEED:

**21st Mortgage Corporation**

**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 102

### TRUSTEE'S NOTICE OF SALE

Reference is made to the deed of trust under which Randall Simonson and Barbara A. Simonson, as grantor, Tim Williams is the trustee, and 21st Mortgage Corporation is the beneficiary, which was dated June 27, 2008 and recorded July 2, 2008 in Book 2008, Page 9665 in the Official Records of Klamath County, Oregon. Said deed of trust cover the following described real property situated in the above-mentioned county and state, to-wit:

Lot 35, tract 1456 - Summerfield Residential Community, according to the plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said deed of trust and a notice of default has been recorded pursuant to ORS 86.735(3); the default for which the foreclosure is made is grantor's failure to pay when due the following sums:

Failure to make monthly payments of **\$1,260.76** each due on the 1st day of March 2009 through December 1, 2009.

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, to-wit:

**\$103,512.57**; plus interest at the rate of 11.78% per annum; plus attorney and trustee's fees and costs.

WHEREFORE, notice hereby is given that the undersigned trustee will, on **Friday, July 16, 2010** at the hour of **11:00 A.M.**, in accord with the standard of time established by ORS 187.110, at the **Klamath County Courthouse, 316 Main Street, Klamath Falls, OR 97601**, 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 grantor of the said trust deed, together with any interest which the grantor or grantor's 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 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.

In construing this notice, 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 deed of trust, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

### 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 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 sale is June 16, 2010. The name and mailing address of the trustee 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 also included with this notice.

Trustee: John W. Weil  
1001 SW 5th Ave, Suite 2150  
Portland, OR 97204

Oregon State Bar: P.O. Box 231935  
Tigard, OR 97281

Lawyer Referral Service: 503-684-3763 or  
toll-free in Oregon at 800-452-7636

Legal Aid: LASO Klamath Falls Regional Office  
403 Pine Street, Ste. 250  
Klamath Falls, OR 97601

(541) 273-0533

////

////

////

////

////

////

////


////

////

////

*We are a debt collector. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.*

DATED: December 29, 2009.

  
\_\_\_\_\_  
John W. Weil, Successor Trustee  
1001 SW 5th Avenue, Suite 2150  
Portland, Oregon 97204  
Telephone No. (503) 226-0500

STATE OF OREGON     )  
                              ) ss.  
County of Multnomah    )

I, the undersigned, certify that I am the attorney or one of the attorneys for the above-named trustee and that the foregoing is a complete and exact copy of the original trustee's notice of sale.

\_\_\_\_\_  
Attorney for Successor Trustee

If the foregoing is a copy to be served pursuant to ORS 86.740 or ORS 86.750(1), fill in opposite the name and address of party to be served:

--

Randall and Barbara Simonson, Grantors  
5469 Winterfield Way  
Klamath Falls, OR 97603

**After recording return to:**

John W. Weil, Successor Trustee  
1001 SW 5th Ave, Suite 2150  
Portland, OR 97204

**AFFIDAVIT OF SERVICE AND MAILING OF TRUSTEE'S NOTICE OF SALE AND "DANGER NOTICE"**

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah    )

I, John W. Weil, being first duly sworn, depose, and say that:

At all times hereinafter mentioned, 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 beneficiary's successor in interest named in the attached original Trustee's Notice of Sale given under the terms of that certain deed of trust (as described in the attached Trustee's Notice of Sale) dated June 27, 2008 and recorded July 2, 2008 in Book 2008, Page 9665 in the Official Records of Klamath County, Oregon.

I hereby certify that I delivered true and correct copies of the attached Trustee's Notice of Sale to be served upon the occupant(s) of the property described in said notice, by posting and have attached hereto the original proof of service thereof. The Trustee's Notice of Sale was served no later than 120 days before the date of the sale.

I further certify that I gave notice of the sale of the real property described in the attached Trustee's Notice of Sale by mailing copies thereof by both first class and certified mail (with return receipt requested) to each of the following named persons (or their legal representatives, where so indicated) at their respective last known addresses, to-wit:

Occupant(s)	5469 Winterfield Way Klamath Falls, OR 97603
Randall Simonson	5469 Winterfield Way Klamath Falls, OR 97603
Barbara A. Simonson	5469 Winterfield Way Klamath Falls, OR 97603
Randall Simonson	2861 Pinecrest Ct Medford, OR 97504
Barbara A. Simonson	2861 Pinecrest Ct Medford, OR 97504
Gary Nielsen dba Basin Services	3255 Washburn Way, Suite 6, #190 Klamath Falls, OR 97603

Gary Nielsen dba Basin Services c/o Barbara M. Dilaconi	803 Main St, Suite 201 Klamath Falls, OR 97601
Les Schwab Tire Centers	5757 S 6th St Klamath Falls, OR 97603

These persons include (a) the grantors in the trust deed; (b) any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice; (c) any person(s), including the Department of Revenue or any other state agency, having a lien or interest subsequent to the trust deed, if the lien or interest appears of record or the beneficiary has actual notice of the lien or interest; and (d) any person(s) requesting notice as set forth in ORS 86.785.

Each of the notices so mailed was certified to be a true copy of the original, attached Trustee's Notice of Sale. Each such copy was mailed in a sealed envelope, with postage thereon fully prepaid, and was deposited in the United States post office at Portland, Oregon, on December 29, 2009. With respect to each person listed above, one such notice was mailed with postage thereon sufficient for first class delivery to the address indicated, and another such notice was mailed with a proper form to request and obtain a return receipt, with postage thereon in an amount sufficient to accomplish the same. Each such notice was mailed after the Notice of Default and Election to Sell described in the Trustee's Notice of Sale was recorded.

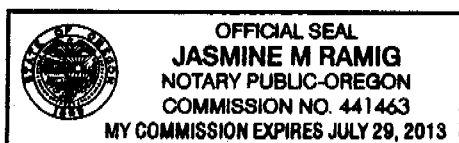
Included with the Notice of Default and Election to Sell recorded on December 27, 2009 as Recording No. 2009-015428, and mailed to the grantor by both first class mail and certified mail (with receipt requested), was the NOTICE YOU ARE IN DANGER OF LOSING YOUR PROPERTY IF YOU DO NOT TAKE ACTION IMMEDIATELY, that notice required by section 20 of Enrolled House Bill 3630 (HB 3630-B).

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

\_\_\_\_\_  
John W. Weil, Successor Trustee

STATE OF OREGON, County of Multnomah ) ss.

Subscribed and sworn to before me on July 1, 2010 by John W. Weil.



\_\_\_\_\_  
Notary Public for Oregon

**PROOF OF SERVICE  
JEFFERSON STATE ADJUSTERS**

STATE OF: Oregon  
COUNTY OF: Klamath

I hereby certify that I served the foregoing individuals or other legal entities to be served, named below, by delivering or leaving true copies or original, certified to be such by the Attorney for the Plaintiff/Defendant, as follows: **TRUSTEE'S NOTICE OF SALE**

FOR THE WITHIN NAMED: Occupants of **5469 Wintefield Way. Klamath Falls, OR 97603**

☐ **PERSONALLY SERVED:** Original or True Copy to within named, personally and in person to \_\_\_ at the address below.

☐ **SUBSTITUTE SERVICE:** By delivering an Original or True Copy to \_\_, a person over the age of 14 who resides at the place of abode of the within named at said abode shown below for:

☒ **OTHER METHOD:** By posting the above-mentioned documents to the Main Entrance of the address below.

1<sup>st</sup> Attempt: **January 06, 2010**      **1:12 PM**      **Posted**

2<sup>nd</sup> Attempt: **January 09, 2010**      **1:01 PM**      **Posted**

3<sup>rd</sup> Attempt: **January 11, 2010**      **1:55 PM**      **Posted**

☐ **NON-OCCUPANCY:** I certify that I received the within document(s) for service on \_\_\_ and after personal inspection, I found the above described real property to be unoccupied.

☒ **SUBSTITUTE SERVICE MAILER:** That on the day of **January 13, 2010**, I mailed a copy of the Trustee's Notice of Sale addressed to **All Known Occupants** at the address stated in the Trustee's Notice of Sale with a statement of the date, time, and place at which substitute service was made.

Signed

*Chelsea Meek*

**5469 Wintefield Way. Klamath Falls, OR 97603**

**ADDRESS OF SERVICE**

I further certify that I am a competent person 18 years of age or older and a resident of the state of service of the State of Oregon and that I am not a party to nor an officer, director, or employee of nor attorney for any party, Corporation or otherwise, that the person, firm or corporation served by me is the identical person, firm, or Corporation named in the action.

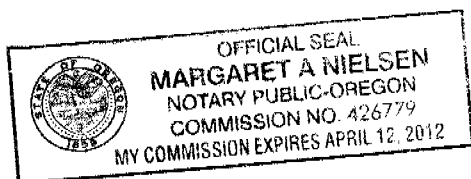
January 6, 2010      1:12 PM  
**DATE OF SERVICE**      **TIME OF SERVICE**

☐ or non occupancy

By:

*Jake Doalin*

Subscribed and sworn to before on this 13<sup>th</sup> day of January, 2010.



*Margaret A. Nielsen*  
Notary Public for Oregon

# 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 # 12304

Trustee's Notice of Sale

Simonson

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:

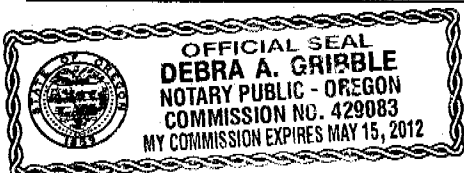
May 18, 25, June 1, 8, 2010

Total Cost: \$1,269.87

*Jeanine P Day*  
Subscribed and sworn by Jeanine P Day  
before me on: June 9, 2010

*Debra A. Gribble*  
Notary Public of Oregon

My commission expires May 15, 2012



### TRUSTEE'S NOTICE OF SALE

Reference is made to the deed of trust under which Randall Simonson and Barbara A. Simonson, as grantor, Tim Williams is the trustee, and 21st Mortgage Corporation is the beneficiary, which was dated June 27, 2008 and recorded July 2, 2008 in Book 2008, Page 9665 in the Official Records of Klamath County, Oregon. Said deed of trust cover the following described real property situated in the above-mentioned county and state, to-wit: Lot 35, tract 1456 - Summerfield Residential Community, according to the plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said deed of trust and a notice of default has been recorded pursuant to ORS 86.735(3) the default for which the foreclosure is made is grantor's failure to pay when due the following sums: Failure to make monthly payments of \$1,260.76 each due on the 1st day of March 2009 through December 1, 2009.

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:

to-wit: \$103,512.57; plus interest at the rate of 11.78% per annum; plus attorney and trustee's fees and costs.

WHEREFORE, notice hereby is given that the undersigned trustee will, on **Friday, July 16, 2010** at the hour of **11:00 A.M.**, in accord with the standard of time established by ORS 187.110, at the **Klamath County Courthouse, 316 Main Street, Klamath Falls, OR 97601**, 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 grantor of the said trust deed, together with any interest which the grantor or grantor's 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 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.

In construing this notice, 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 deed of trust, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

#### 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 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 sale is June 16, 2010. The name and mailing address of the trustee 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 also included with this notice. Trustee: John W. Weil 1001 SW 5th Ave, Suite 2150, Portland, OR 97204. Oregon State Bar: P.O. Box 231935, Tigard, OR 97281. Lawyer Referral Service: 503-684-3763 or toll-free in Oregon at 800-452-7636. Legal Aid: LASO Klamath Falls Regional Office, 403 Pine Street, Ste. 250, Klamath Falls, OR 97601. (541) 273-0533

We are a debt collector. This communication is an attempt to collect a debt and any information obtained will be used for that purpose. DATED: December 29, 2009: John W. Weil, Successor Trustee, 1001 SW 5th Avenue, Suite 2150, Portland, Oregon 97204, Telephone No. (503) 226-0500. #12304 May 18, 25, June 1, 8, 2010.

Randall & Barbara A. Simonson, Grantors  
5469 Winterfield Way  
Klamath Falls, OR 97603

**After recording return to:**

John W. Weil, Successor Trustee  
1001 SW 5th Ave, Suite 2150  
Portland, OR 97204

**AFFIDAVIT OF COMPLIANCE WITH OREGON LAWS 2009, CHAPTER 864 SECTION 3(1) AND (2)**

STATE OF TENNESSE )

County of Knox ) ss.  
)

I, Dennis A. Gast, being first duly sworn, depose, and say and certify that:

At all times mentioned herein, I was and now am a resident of the State of Tennessee, a competent person over the age of eighteen years, and I am authorized to sign on behalf of 21st Mortgage Corporation, the beneficiary, or the beneficiary's successor in interest, given under the terms of that certain deed of trust dated June 27, 2008 and recorded July 2, 2008 in Book 2008, Page 9665 in the Official Records of Klamath County, Oregon (the "Deed of Trust"), and covering the following described real property (the "property") situated in the above mentioned county and state, to wit:

Lot 35, tract 1456 - Summerfield Residential Community, according to the plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

☐ The Deed of Trust is held by a government agency for a loan the government agency funded through a government program, and, therefore, the obligations of the beneficiary or the beneficiary's agent under Sections 3(1) and (2), Chapter 864, Oregon Laws 2009 do not apply, as provided in Section 8(2), Chapter 864, Oregon Laws 2009.

☐ The Deed of Trust is not a "Residential Deed of Trust" as defined by ORS 86.705(3) and therefore the obligations of the beneficiary or the beneficiary's agent under Sections 3(1) and (2), Chapter 864, Oregon Laws 2009 do not apply.

☒ The beneficiary or the beneficiary's agent did not receive a modification request form within 30 days after the date on which the trustee signed the notice required under ORS 86.737 (1) - the "danger" notice. Therefore, the obligations of the beneficiary or the beneficiary's agent under Sections 3(1) and (2), Chapter 864, Oregon Laws 2009 do not apply.

☐ The beneficiary determined, in good faith, after considering the most current financial information the grantor provided, that the grantor is not eligible for a loan modification and the beneficiary informed the grantor that the grantor is not eligible. Therefore, the obligations of the beneficiary or the beneficiary's agent under Sections 3(1) and (2), Chapter 864, Oregon Laws 2009 do not apply, as provided in Section 3(4), Chapter 864, Oregon Laws 2009.

☐ The beneficiary or the beneficiary's agent reviewed the information the grantor provided in the modification request form and, in good faith, processed the grantor's request. The beneficiary or the beneficiary's agent notified the grantor not later than 45 days after receiving the form that the beneficiary denied the request or required additional information. The grantor did not request a meeting with the beneficiary; therefore, the obligations of the beneficiary or the beneficiary's agent under Sections 3(2), Chapter 864, Oregon Laws 2009 do not apply.

☐ The beneficiary or the beneficiary's agent reviewed the information the grantor provided in the modification request form and, in good faith, processed the grantor's request. The grantor timely requested a meeting with the beneficiary. Before the beneficiary or the beneficiary's agent responded to the grantor's request to modify the loan, the beneficiary or the beneficiary's agent [CIRCLE ALL THAT APPLY]:

- met with the grantor in person, and/or
- spoke with the grantor by telephone.

The beneficiary or beneficiary's agent that met with the grantor had or was able to obtain the authority to modify the loan. The beneficiary or the beneficiary's agent notified the grantor, not later than 45 days after receiving the form, that the beneficiary denied the request or required additional information.

☐ The beneficiary or the beneficiary's agent reviewed the information the grantor provided in the modification request form and, in good faith, processed the grantor's request. The grantor timely requested a meeting with the beneficiary. Before the beneficiary or beneficiary's agent responded to the grantor's request to modify the loan, the beneficiary or beneficiary's agent took reasonable steps to schedule the meeting by contacting the grantors at [CIRCLE ALL THAT APPLY]:

- the grantor's last known address;
- the grantor's telephone number, and/or
- the grantor's electronic mail address, because the grantor indicated on the loan modification form that the beneficiary or beneficiary's agent could contact the grantor at the electronic mail address provided.

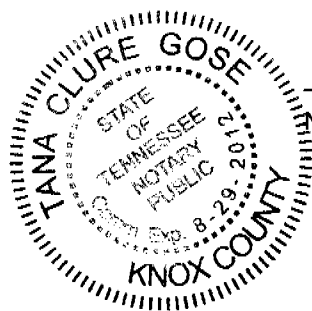
The beneficiary or the beneficiary's agent did not speak to or meet with the grantor. However, under Section 3(2)(b), Chapter 864, Oregon Laws 2009, within 7 business days after the beneficiary or the beneficiary's agent attempted to contact the grantor, the grantor did not respond. The beneficiary or the beneficiary's agent notified the grantor, not later than 45 days after receiving the form, that the beneficiary denied the request or required additional information.

DATED: 2/17, 2010.

21ST MORTGAGE CORPORATION

By: Dennis A. Gast  
Name: Dennis A. Gast  
Title: LEGAL Coordinator

SUBSCRIBED AND SWORN to before me on February 17, 2010.



Tana Clure Gose

Notary Public for Tennessee