

WTC 871163

2010-008596

Klamath County, Oregon



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07/19/2010 03:25:12 PM

Fee: \$72.00

RECORDING COVER SHEET

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

After Recording, Return To:

Brandsness, Brandsness and Rudd
411 Pine Street
Klamath Falls, OR 97601

1. Name(s) of the Transaction(s):

Affidavit of Mailing Trustee's Notice of Sale
Trustee's Affidavit as to Non-Occupancy
Affidavit of Publication

2. Direct Party (Grantor):

Thomas L. Potter and Lois K. Potter

3. Indirect Party (Grantee):

Donald R. Vogel Trustee of the Donald R. Vogel Trust dated July 6, 1994, as to a 71% interest
and James A. Carlson and Karen K. Carlson, or the survivor thereof, as to a 29% interest

4. True and Actual Consideration Paid:

n/a

5. Legal Description:

See attached

72 AMJ

RETURN TO:
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, OR 97601

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

STATE OF OREGON)
) ss:
County of Klamath)

I, Drew A. Humphrey, being first duly sworn, depose, say and certify 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 notice of sale given under the terms of that certain trust deed described in said notice.

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:

Thomas L. Potter
P. O. Box 1467
Klamath Falls, OR 97601

Lois K. Potter
P. O. Box 1467
Klamath Falls, OR 97601

Capital One Bank (USA) NA
Attn: General Correspondence
P. O. Box 30285
Salt Lake City, UT 84130-0285

Capital One Bank (USA) NA
Attn: Corporation Service Company,
its Registered Agent
P. O. Box 1463
Richmond, VA 23218

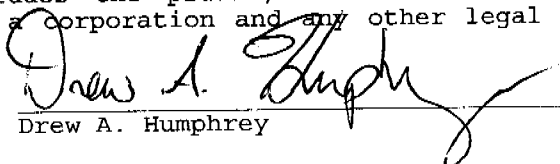
Oregon Department of Consumer
and Business Services
P. O. Box 14480
Salem, OR 97309-0405

City of Klamath Falls
Attn: City Attorney
500 Klamath Avenue
Klamath Falls, OR 97601

Said persons include (a) the grantor 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) and any person, including the Department of Revenue or an 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 requesting notice, as required by ORS 86.785.

Each of the notices so mailed was certified to be a true copy of the original notice of sale by the trustee Andrew C. Brandsness. Each such copy was mailed in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States post office at Klamath Falls, Oregon, on March 16, 2010. 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 the amount sufficient to accomplish the same. Each such notice was mailed after the Notice of Default and Election to Sell described in said notice of sale was recorded.

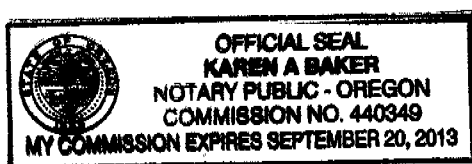
As used herein, the singular includes the plural, "trustee" includes successor trustee, and "person" includes a corporation and any other legal or commercial entity.


Drew A. Humphrey

STATE OF OREGON, County of Klamath) ss.

Personally appeared before me this 16 day of March, 2010, Drew A. Humphrey and acknowledged the foregoing instrument to be his voluntary act and deed.


Notary Public for Oregon
My Commission expires: 9.20.2013



**NOTICE OF DEFAULT
AND ELECTION TO SELL AND OF SALE**

Reference is made to a certain trust deed ("Trust Deed") made, as follows:

Thomas L. Potter and Lois K. Potter, as tenants by the entirety, Grantor; AmeriTitle, Trustee; and Donald R. Vogel Trustee of the Donald R. Vogel Trust dated July 6, 1994, as to a 71% interest and James A. Carlson and Karen K. Carlson, or the survivor thereof, as to a 29% interest, Beneficiary, recorded in Official/Microfilm Records, Volume M06, Page 13625, Klamath County, Oregon, covering the following-described real property in Klamath County, Oregon ("Property"):

Tract 8B of LAKESHORE GARDENS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

LESS AND EXCEPT that portion of Tract 8B which was deeded to the City of Klamath Falls by instrument recorded October 23, 1974 in Volume M74, page 13973, Microfilm Records of Klamath County, Oregon

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

Failed to pay principal and interest due on July 5, 2007; failed to pay 2006-2007, 2007-2008, 2008-2009 and 2009-2010 Klamath County Real Property taxes in the total amount of \$213.56, plus interest, if any.

By reason of said defaults, the beneficiary has declared all sums owing on the obligations secured by said Trust Deed immediately due and payable, said sums being the following, to-wit:

The sum of \$85,000 principal plus interest thereon at the rate of 15% per annum from July 5, 2007 until paid, late charges in the amount of \$106.25 and 2006-2007, 2007-2008, 2008-2009 and 2009-2010 Klamath County Real Property taxes in the total amount of \$213.56, plus interest, if any, plus trustee's fees, attorney's fees, foreclosure costs and any sums advanced by beneficiary pursuant to the terms of said trust deed.

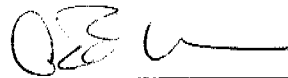
WHEREFORE, notice hereby is given that the undersigned trustee will, on August 5, 2010, at the hour of 10:00 o'clock a.m., in accord with the standard of time established by ORS 187.110, at the following place: Offices of Brandsness, Brandsness & Rudd, P.C., 411 Pine Street, Klamath Falls, Oregon, sell at public auction to the highest bidder for cash the interest in the above-described 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 the Trust Deed, to satisfy the 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 sum 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 each and every grantor, any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said Deeds 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 a 30-day notice on or after the date of 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 sale is July 6, 2010. 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's lawyer referral service at 503-684-3763 or toll-free in Oregon at 800-452-7636. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. For more information and a directory of legal aid programs, go to <http://oregonlawhelp.org> or contact the Oregon State Bar's lawyer referral service at the phone numbers referenced above.

Dated: March 16, 2010.



Andrew C. Brandsness, Successor Trustee
411 Pine Street
Klamath Falls, OR 97601

STATE OF OREGON)
) ss.
County of Klamath)

I, the undersigned, certify that the foregoing is a complete and exact copy of the original Notice of Sale.

Andrew C. Brandsness, Successor Trustee

NOTICE REQUIRED BY THE FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. § 1692

1. The amount of the debt is stated in the Notice of Sale attached hereto.
2. The beneficiary named in the attached Notice of Sale is the creditor to whom the debt is owed.
3. The debt described in the Notice of Sale attached hereto will be assumed to be valid by the trustee unless the debtor, within 30 days after the receipt of this notice, disputes the validity of the debt or some portion thereof.
4. If the debtor notifies the trustee in writing within 30 days of receipt of this notice that the debt or any portion thereof is disputed, the trustee will provide verification of the debt, and a copy of the verification will be mailed to the debtor by the trustee.
5. If the creditor named as beneficiary in the attached Notice of Sale is not the original creditor, and if the debtor makes a written request to the trustee within 30 days from receipt of this notice, the name and address of the original creditor will be mailed to the debtor by the trustee.
6. Written requests or objections should be addressed to: Brandsness, Brandsness & Rudd, P.C., 411 Pine Street, Klamath Falls, Oregon 97601.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

RETURN TO:
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, OR 97601

TRUSTEE'S AFFIDAVIT AS TO NON-OCCUPANCY

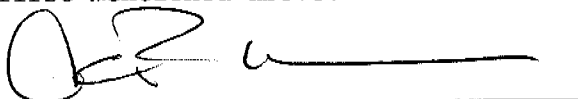
STATE OF OREGON)
) ss.
County of Klamath)

I, Andrew C. Brandsness, being first duly sworn, depose, say and certify that:

I am the successor trustee in that certain trust deed executed and delivered by Thomas L. Potter and Lois K. Potter, as tenants by the entirety as grantor to AmeriTitle as trustee in which Donald R. Vogel Trustee of the Donald R. Vogel Trust dated July 6, 1994, as to a 71% interest and James A. Carlson and Karen K. Carlson, or the survivor thereof, as to a 29% interest is beneficiary, recorded on July 5, 2006 in the mortgage records of Klamath, Oregon, in book/volume No. M06 at page 13625.

I hereby certify that on March 16, 2010, the real property described in the afore-mentioned trust deed was not occupied.

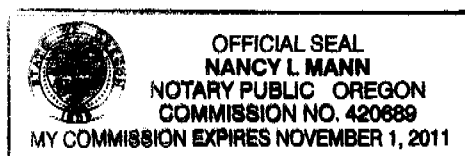
The word "trustee" as used in this affidavit means any successor trustee to the trustee named in the trust deed first mentioned above.




Andrew C. Brandsness
Successor Trustee

STATE OF OREGON)
) ss.
County of Klamath)

Personally appeared before me this 17 day of March, 2010, Andrew C. Brandsness and acknowledged the foregoing instrument to be his voluntary act and deed.




Notary Public for Oregon
My Commission expires: 11-1-11

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 # 12342

Trustee's Notice of Sale

Carlson/Potter

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 22, 29, June 05, 12, 2010

Total Cost: \$1,269.87

Subscribed and sworn by Jeanine P Day
before me on: June 15, 2010

Notary Public of Oregon

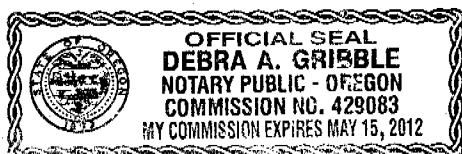
My commission expires May 15, 2012

NOTICE OF DEFAULT AND ELECTION TO SELL AND OF SALE WE ARE ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

Reference is made to a certain trust deed ("Trust Deed") made, as follows: Thomas L. Potter and Lois K. Potter, as tenants by the entirety, Grantor; AmeriTitle, Trustee; and Donald R. Vogel Trustee of the Donald R. Vogel Trust dated July 6, 1994, as to a 71% interest and James A. Carlson and Karen K. Carlson, or the survivor thereof, as to a 29% interest, Beneficiary, recorded in Official/Microfilm Records, Volume M06, Page 13625, Klamath County, Oregon, covering the following-described real property in Klamath County, Oregon ("Property"): Tract 8B of LAKESHORE GARDENS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon; LESS AND EXCEPT that portion of Tract 8B which was deeded to the City of Klamath Falls by instrument recorded October 23, 1974 in Volume M74, page 13973, Microfilm Records of Klamath County, Oregon. The defaults for which foreclosure is made is grantor's failure to pay when due the following sums: Failed to pay principal and interest due on July 5, 2007; failed to pay 2006-2007, 2007-2008, 2008-2009 and 2009-2010 Klamath County Real Property taxes in the total amount of \$213.56, plus interest, if any.

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WHEREFORE, notice hereby is given that the undersigned trustee will, on August 5, 2010, at the hour of 10:00 o'clock a.m., in accord with the standard of time established by ORS 187.110, at the following place: Offices of Brandsness, Brandsness & Rudd, P.C., 411 Pine Street, Klamath Falls, Oregon, sell at public auction to the highest bidder for cash the interest in the above-described 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 the Trust Deed, to satisfy the 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 sum 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.



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Dated: May , 2010:

/s/ Andrew C. Brandsness, Successor Trustee
411 Pine Street, Klamath Falls, OR 97601.
#12342 May 22, 29, June 05, 12, 2010.