

2010-012460

Klamath County, Oregon



00092003201000124600090099

10/22/2010 08:52:13 AM

Fee: \$77.00

**AFFIDAVIT OF MAILING**

**RE: Trust Deed From**

**Mark D. Stapleton, Grantor**

**To**

**Charles A. Huber,  
Successor Trustee**

Recording requested by and  
after recording return to:  
Charles J. Huber, Trustee  
Cosgrave Vergeer Kester LLP  
805 SW Broadway, 8<sup>th</sup> Floor  
Portland, OR 97205

SPACE RESERVED FOR RECORDER'S USE

**AFFIDAVIT OF MAILING NOTICE OF DEFAULT**

Pursuant to ORS 86.750 et seq.

STATE OF OREGON            )  
  )   ss  
COUNTY OF MULTNOMAH)

I, Charles J. Huber, under oath, state as follow:

1. Attached as Exhibit A is a true and correct copy of the Notice of Default And Intent to Sell pertaining to the Deed of Trust made by Mark D. Stapleton, as grantor (the "Grantor") to Charles J. Huber, as successor trustee (the "Trustee"), in favor of Charles E. Hart as beneficiary (the "Beneficiary"), dated August 13, 2007, recorded August 27, 2007, in the Records of Klamath County, Oregon, as document No. 2007-015114.
2. The Notice of Default and Intent to Sell was mailed both by first-class and certified mail with return receipt requested to the following persons at the last-known address indicated:  
  
                                  Mr. Mark D. Stapleton  
                                  P.O. Box 137  
                                  Merrill, OR 97633
3. Attached as Exhibit B is a copy of the Certified Mail Receipt for the address named in paragraph 2.
4. Attached as Exhibit C is an affidavit of publication.

5. To the best of my knowledge and belief defendant is not incapacitated, a minor, a protected person, or a respondent as defined in ORS 125.005.
6. To the best of my knowledge and belief after making reasonable inquiry, defendant is not a person in military service, as defined in Article 1 of the amended "Soldiers' and Sailors' Civil Relief Act of 1940."
7. I make this affidavit as attorney for and on behalf of Charles E. Hart.

DATED: October 21, 2010

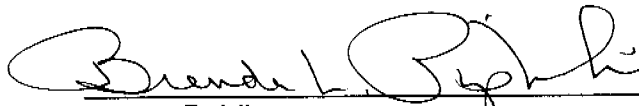


Charles J. Huber, Trustee

State of Oregon                     )  
  ).ss  
County of Multnomah            )

On this 21st day of October, 2010, before me, a Notary Public in and for the State of Oregon duly commission and sworn, CHARLES J. HUBER personally appeared to me and acknowledged the said instrument to be the free and voluntary act and deed of said trustee, for the uses and purposes therein mentioned.

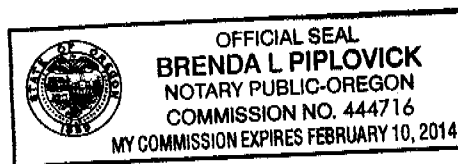
Witness my hand and official seal hereto affixed the day and year first above written.



Notary Public

My Commission Expires: 2-10-2014

Contact Information for Trustee:  
Charles J. Huber  
Cosgrave Vergeer Kester LLP  
805 SW Broadway, 8<sup>th</sup> Floor  
Portland, OR 97205



2010-004951

Klamath County, Oregon



00083193201000049510040042

04/27/2010 08:18:54 AM

Fee: \$52.00

**Notice of Default  
and Election to Sell**

**RE: Trust Deed From**

**Mark D. Stapleton, Grantor**

**To**

**Charles A. Huber,  
Successor Trustee**

Recording requested by and  
after recording return to:  
Charles J. Huber, Trustee  
Cosgrave Vergeer Kester LLP  
805 SW Broadway, 8<sup>th</sup> Floor  
Portland, OR 97205

SPACE RESERVED FOR RECORDER'S USE

**NOTICE OF DEFAULT AND ELECTION TO SELL**

Pursuant to ORS 86.735 et seq.

Reference is made to that certain Deed of Trust and made by Mark D. Stapleton, as grantor (the "Grantor") to Charles J. Huber, as successor trustee (the "Trustee"), in favor of Charles E. Hart Trustee of the Charles E. Hart Trust, as beneficiary (the "Beneficiary"), dated August 13, 2007, recorded August 27, 2007, in the Records of Klamath County, Oregon, as document No. 2007-015114, covering the following described real property (the "Property") situated in the above-mentioned county and state, to-wit:

SEE EXHIBIT "A" LEGAL DESCRIPTION ATTACHED HERETO AND BY REFERENCE  
MADE A PART HEREOF

The undersigned hereby certifies that no assignments of the Trust Deed by the Trustee or by the Beneficiary and no appointments of a successor trustee have been made, except as recorded in the Records of the county or counties in which the Property is situated. Further, the undersigned hereby certifies that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the 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 Grantor owing an obligation, performance of which is secured by the Trust Deed, with respect to provisions therein which authorize sale in the event of default of such provisions. The default for which foreclosure is made is Grantor's failure to pay when due the following sums:

1. Principal payment of \$120,850.00, and interest thereon at the rate of 15% per annum from August 27, 2007, until paid.

By reason of the default, the Beneficiary has declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, those sums being the following estimated amounts, to-wit:

- |   |              |
|---|--------------|
| 1. Unpaid principle:  | \$120,850.00 |
| 2. Accrued and unpaid interest through and including April 21, 2010 (and continuing at the combined stated and default rate of \$49.66/day):  | \$ 48,025.46 |
| 3. Extension fee of:  | \$ 8,338.65  |
| 4. Subtotal:  | \$177,214.11 |
| 5. Together with title expenses and costs, recording fees, attorneys' fees and costs incurred herein by reason of said default, and any further sums advanced by the Beneficiary for the protection of the Property and its interest therein. |              |

Notice hereby is given that the Beneficiary and Trustee, by reason of the default, have elected and do hereby elect to foreclose the 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 Property which Grantor had, or had the power to convey, at the time of the execution by Grantor of the Trust Deed, together with any interest Grantor or Grantor's successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by the Trust Deed and the expenses of the sale, including compensation of the Trustee as provided by law, and the reasonable fees of Trustee's attorneys.

The sale will be held at the hour of **10:00 o'clock, A.M.** in accord with the standard time established by ORS 187.110 on **Tuesday, September 21<sup>st</sup>, 2010**, at the following place: **The front steps to the Klamath County Circuit Courthouse – 13<sup>th</sup> Judicial District, located at 316 Main Street, Klamath Falls, Oregon, 97601.**

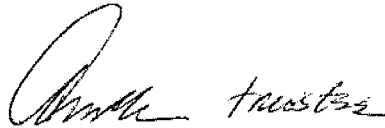
Other than as shown of record, neither the Beneficiary nor the Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the Property herein-above described subsequent to the interest of the Trustee in the Trust Deed, or any successor in interest to Grantor or 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 principle 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 the sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation

and Trust Deed, together with trustee's and attorneys' fees, subject to the limitations, as applicable, imposed by ORS 86.753.

In construing this notice, the singular gender 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 the Trust Deed, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

DATED: April 21, 2010

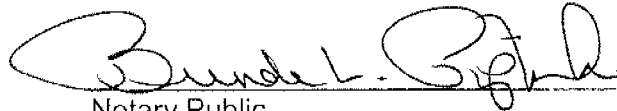


Charles J. Huber, Trustee

State of Oregon                    )  
  ).ss  
County of Multnomah         )

On this 21<sup>st</sup> day of April, 2010, before me, a Notary Public in and for the State of Oregon duly commission and sworn, CHARLES J. HUBER personally appeared to me and acknowledged the said instrument to be the free and voluntary act and deed of said trustee, for the uses and purposes therein mentioned.

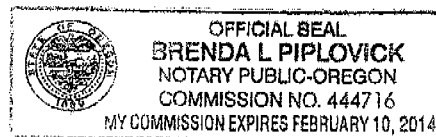
Witness my hand and official seal hereto affixed the day and year first above written.



Notary Public

My Commission Expires: 2/10/2014

Contact Information for Trustee:  
Charles J. Huber  
Cosgrave Vergeer Kester LLP  
805 SW Broadway, 8<sup>th</sup> Floor  
Portland, OR 97205



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1:**

Lot 2 in Block 12, ORIGINAL TOWN OF MERRILL, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 2:**

Beginning on the North line of County road at a point which is South 1260 feet and South 89° 30' West 593.6 feet from the Northeast corner of Section 25, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence North 500 feet; thence South 89° 30' West 131.2 feet to the United States Canal A-7; thence Southeasterly along said canal right of way to the aforesaid County Road; thence North 89° 30' East 43.1 feet along said County road to the point of beginning, being in the NE1/4 of said Section 25.

**AND ALSO**

Beginning at a point on the Northerly right of way line of the County road which lies South 89° 33' West a distance of 647 feet and North 9° 47' West a distance of 30.4 feet from the iron axle which marks the Southeast corner of the NE1/4 of the NE1/4 of Section 25, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and running thence, continuing North 9° 47' West along the easterly right of way line of the U.S.R.S. Lateral, a distance of 506.6 feet to an iron pin; thence North 89° 33' East a distance of 14.7 feet to an iron pin; thence in a Southeasterly direction a distance of 506.6 feet to a point on the Northerly right of way line of the County road; thence South 89° 33' West along the Northerly right of way line of the County road a distance of 15.5 feet, more or less, to the point of beginning, in the NE1/4 of the NE1/4 in Section 25, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. (Known as Tract K.)

EXCEPTING THEREFROM the Southerly 160 feet thereof (the North boundary thereof to be parallel to Henley Road) as conveyed by instrument recorded January 17, 1975 in Volume M75, page 782, Microfilm Records of Klamath County, Oregon,

TOGETHER WITH a perpetual non-exclusive easement for ingress and egress over that portion of the premises on which Klamath County School District presently holds an easement as evidenced by instrument recorded January 5, 1975 in Volume M75, page 782, Microfilm Records of Klamath County, Oregon.

**PARCEL 3:**

Lot B as shown on the Plat of Chiloquin Acres. filed May 21, 1927, in Klamath County, said subdivision was vacated by order signed December 14, 1951, in the County of Klamath State of Oregon.

Together with an easement dated December 15, 1972, recorded March 10, 1981 in Volume M81, page 4238, Microfilm Records of Klamath County, Oregon.

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Mark D. Stapleton  
PO Box 137  
Memil, OR 97633

## 2. Article Number

(Transfer from service label)

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *Mark D. Stapleton* ☒ Agent  
☐ Addressee

## B. Received by (Printed Name)

*Kristi Stapleton*

## C. Date of Delivery

*5-24-10*D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

## 3. Service Type

☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

# 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 # 12707

Trustee's Notice of Sale

Stapleton

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:

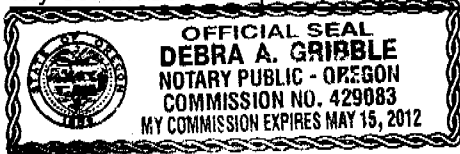
September 9, 16, 23, 30, 2010

Total Cost: \$1,886.19

*Jeanine P Day*  
Subscribed and sworn by Jeanine P Day  
before me on: September 30, 2010

*Debra A Gribble*  
Notary Public of Oregon

My commission expires May 15, 2012



### NOTICE OF DEFAULT AND ELECTION TO SELL Pursuant to ORS 86.735 et seq.

Reference is made to that certain Deed of Trust and made by Mark D. Stapleton, as grantor (the "Grantor") to Charles J. Huber, as successor trustee (the "Trustee"), in favor of Charles E. Hart Trustee of the Charles E. Hart Trust, as beneficiary (the "Beneficiary"), dated August 13, 2007, recorded August 27, 2007, in the Records of Klamath County, Oregon, as document No. 2007-015114, covering the following described real property (the "Property") situated in the above-mentioned county and state, to-wit:

SEE EXHIBIT "A" LEGAL DESCRIPTION ATTACHED  
HERETO AND BY REFERENCE MADE A PART HEREOF

The undersigned hereby certifies that no assignments of the Trust Deed by the Trustee or by the Beneficiary and no appointments of a successor trustee have been made, except as recorded in the Records of the county or counties in which the Property is situated. Further, the undersigned hereby certifies that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the 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 Grantor owing an obligation, performance of which is secured by the Trust Deed, with respect to provisions therein which authorize sale in the event of default of such provisions. The default for which foreclosure is made is Grantor's failure to pay when due the following sums:~~

~~1. Principal payment of \$120,850.00, and interest thereon at the rate of 15% per annum from August 27, 2007, until paid.~~

By reason of the default, the Beneficiary has declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, those sums being the following estimated amounts, to-wit: 1. Unpaid principle: \$120,850.00 2. Accrued and unpaid interest through and including April 21, 2010 (and continuing at the combined stated and default rate of \$49.66/day): \$ 48,025.46 3. Extension fee of: \$8,338.65 4. Subtotal: \$177,214.11 5. Together with title expenses and costs, recording fees, attorneys' fees and costs incurred herein by reason of said default, and any further sums advanced by the Beneficiary for the protection of the Property and its interest therein.

Notice hereby is given that the Beneficiary and Trustee, by reason of the default, have elected and do hereby elect to foreclose the 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 Property which Grantor had, or had the power to convey, at the time of the execution by Grantor of the Trust Deed, together with any interest Grantor or Grantor's successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by the Trust Deed and the expenses of the sale, including compensation of the Trustee as provided by law, and the reasonable fees of Trustee's attorneys.

The sale will be held at the hour of 10:00 o'clock, A.M. in accord with the standard time established by ORS 187.110 on Tuesday, September 21st, 2010, at the following place: The front steps to the Klamath County Circuit Courthouse 13th Judicial District, located at 316 Main Street, Klamath Falls, Oregon, 97601.

Other than as shown of record, neither the Beneficiary nor the Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the Property herein-above described subsequent to the interest of the Trustee in the Trust Deed, or any successor in interest to Grantor or 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 principle 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 the sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and Trust



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 attorneys' fees, subject to the limitations, as applicable, imposed by ORS 86.753.

In construing this notice, the singular gender 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 the Trust Deed, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

DATED: April 21, 2010  
Charles J. Huber, Trustee

Contact Information for Trustee:  
Charles J. Huber, Cosgrave Vergeer Kester LLP  
805 SW Broadway, 8th Floor, Portland, OR 97205

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#12707 September 9, 16, 23, 30, 2010.