

- NTC 89422

2011-003263

Klamath County, Oregon



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03/07/2011 02:28:54 PM

Fee: \$112.00

**RECORDING COVER SHEET
FOR NOTICE OF SALE PROOF**

OF COMPLIANCE, PER ORS 205.234

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

AFTER RECORDING RETURN TO:

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

Affidavit of Compliance (HB 3630)

Affidavit of Compliance (SB 628)

ORIGINAL GRANTOR: James Edward Smith and Dottie S. Smith

BENEFICIARY: PHH Mortgage Services

S&S#: 10-105984

Loan #: XXXXXX-9661

Unofficial Copy

107 Amt

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
10-105984

**TRUSTEE'S AFFIDAVIT AS TO COMPLIANCE TO ORS 86.737
AND AFFIDAVIT OF NO TIMELY RECEIPT OF REQUEST FOR LOAN MODIFICATION
OR MEETING UNDER 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 James Edward Smith, a married person, Dottie S. Smith, a married person as grantor to First American Title as trustee, in which PHH Mortgage Services is beneficiary, recorded on November 16, 2005, in the mortgage records of Klamath County, Oregon in M05, at Page 69198, covering the following described real property situated in said county:

The South one-half of Lot 4, Block 8, ALTAMONT ACRES, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon.

Commonly known as: 3515 Bisbee Street, Klamath Falls, OR 97603

I hereby certify that on January 6, 2011, the notice required by ORS 86.737 ("Notice") 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:

James Edward Smith
3515 Bisbee Street
Klamath Falls, OR 97603

Dottie S. Smith
3505 Bisbee Street
Klamath Falls, OR 97603

Dottie S. Smith
37070 Highway 62
Chiloquin, OR 97624

Dottie S. Smith
3515 Bisbee Street
Klamath Falls, OR 97603

James Edward Smith
37070 Highway 62
Chiloquin, OR 97624

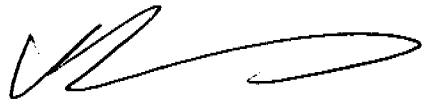
Occupant(s)
3515 Bisbee Street
Klamath Falls, OR 97603

James Edward Smith
3505 Bisbee Street
Klamath Falls, OR 97603

With the Notice, the trustee also included the form contemplated by ORS 86.737 on which the borrower could elect to ask the beneficiary to consider granting a loan modification ("Form"). The Notice also invited the borrower(s) to request a meeting.

The Notice and/or request form instructed the borrower(s) to submit the request for modification and/or meeting to the trustee at the address provided in the Notice and/or Form. The Notice also provided a deadline date, which was more than 30 days after the date the Trustee signed the Notice, by which the trustee would need to receive from the borrower(s) a request for loan modification or request for a meeting. The trustee did not receive a request for loan modification form or request for meeting from the borrower(s) before the deadline set forth in the Notice.

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



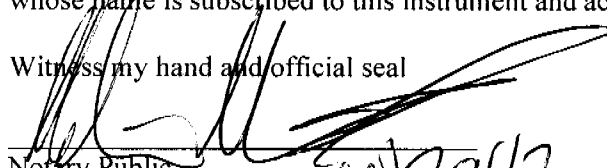
Kelly D. Sutherland

State of Washington)

County of Clark)

On this 14 day of February, in the year 2011, 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



Unofficial Copy

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 3515 Bisbee Street, 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, January 6, 2011 is \$4,517.35.

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 #: 10-105984

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

May 12, 2011, 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 PHH Mortgage Corporation at 800-936-0721 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 800-936-0721. 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

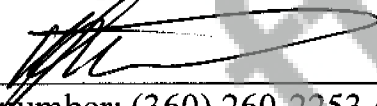
modification programs. You can obtain more information about these programs at:
<http://www.makinghomeaffordable.gov/>.

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 FEBRUARY 8, 2011, 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: January 6, 2011

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature: 

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

LOAN MODIFICATION REQUEST FORM

James Edward Smith
3515 Bisbee Street
Klamath Falls, OR 97603

Dottie S. Smith
3515 Bisbee Street
Klamath Falls, OR 97603

RE: Loan#: 0030709661

Property Address: 3515 Bisbee Street, 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 your loan current and /or decrease the monthly payment so that you can avoid foreclosure.

If you want to apply to modify you must fill out this form and provide all the documentation to the address shown in Step 2 of this form. Please make sure to provide your current address, phone number and electronic mail address (Email). **The form must be received by the mortgage servicer no later than February 8, 2011 at the address shown in Step 2 of this form.** Please indicate by checking the applicable location whether or not you would like your Loan Modified, whether you would like to meet the mortgage servicer, or both

_____ I would like to have my loan modified.

_____ I would like to meet with the mortgage servicer.

Borrower's signature

Borrower's signature

Borrower's Printed Name

Borrower's Printed Name

Borrower's Address

Borrower's Address

Borrower's Phone Number

Borrower's Phone Number

Borrower's E-mail Address

Borrower's E-mail Address

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 Hardship letter (attached) outlining your situation in detail noting all measures taken to date to resolve your problems
- Completed financial disclosure statement (attached) for all mortgagors of record.

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 February 8, 2011. If you have any questions, please contact mortgage servicer at (800) 936-0721.

Act Now!

To see if you qualify for this program, complete the attached form and send it with the items listed below to Mortgage Servicer no later than February 8, 2011 to the address provided below:

Shapiro & Sutherland, LLC
5501 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:

Complete income tax returns for the 2 previous years for all mortgagors listed on loan.

Last two months bank statements, including all checking, savings, money market, etc.

Copies of the most recent pay stubs (2 months) for all mortgagors on the loan.

If applicable - the mortgage servicer will order an appraisal or independent broker price opinion on the subject property.

If applicable - A copy of the listing agreement for the subject property.

If applicable - A copy of the fully executed contract of sale for the subject property. Also, a copy of the estimated sales proceeds listing a breakdown of all closing costs. A clause must be included in the contract of sale making it contingent upon the approval of the mortgage loan investor and the insurer or guarantor of your loan.

If applicable a copy of the buyers prequalification letter.

If you have other types of Income, cannot locate required documents, or have questions about the documentation required, please contact the mortgage servicer at (800) 936-0721.

You must send in all required documentation by no later than February 8, 2011.

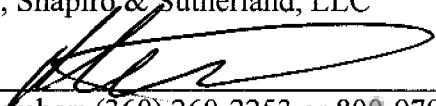
Keep a copy of documents for records. Don't send original income documents, as copies are acceptable.

NEXT STEPS: HERE'S WHAT WILL HAPPEN:

Once the mortgage servicer receives all of your documentation and verifies your information, the mortgage servicer will determine whether you qualify for a payment assistance program. The mortgage servicer will contact you, as reasonably practical but not less than 45 days after receiving the form, to notify you whether the mortgage servicer approves or denies your request, or requires additional information. During this period, the mortgage servicer may require additional information to determine whether the loan can be modified. IF you do not qualify, the mortgage servicer will discuss other alternative with you that may help you keep your home or ease your transition to another home.

DATED: January 6, 2011

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature: 

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

Mortgage Loan #: _____ Property Address: _____

I, _____ am requesting that Cendant Mortgage Services
 (aka: PHH Mortgage Services) review my financial situation to see if I qualify for a
 Workout Option to avoid Foreclosure.

I am having difficulty making my monthly payments because of financial difficulties
 created by: (Please check the one that CLOSEST matches your situation or use the or
 use the "other field to briefly describe your situation)

- | | | |
|---|--|-------------------------------------|
| ☐ Unemployment | ☐ Reduced Income | ☐ Divorce |
| ☐ Separation | ☐ Excessive Debts | ☐ Medical Bills |
| ☐ Death of Spouse | ☐ Payment Increase | ☐ Illness |
| ☐ Job Relocation | ☐ Business Failure | ☐ Incarceration |
| ☐ Military Service | ☐ Damage to Property | |
| ☐ Other (please specify): _____ | | |

Explain Hardship: _____

I believe that my situation/hardship is:	☐ Temporary	☐ Permanent
I would like to participate in a Workout Solution:	☐ Yes	☐ No
I would like to keep my property:	☐ Yes	☐ No

Are there any additional liens on this property to the best of your knowledge. If so,
 please fill out the name, company or firm that is holding that lien.

 Lien Holder's Name

 Amount of Lien

 Borrower's Signature

 Co-Borrower's Signature

BORROWER'S FINANCIAL STATEMENT

Loan #:			
Borrower Name:		Social Security #:	
Mailing Address:			
Employer:		Position:	
Employer Address:		Employer Phone:	
Daytime Phone:		Evening Phone:	
Email Address:			
Number of Dependents at this address:			
Co-Borrower Name:		Social Security#:	
Mailing Address:			
Employer:		Position:	
Employer Address:		Employer Phone:	
Daytime Phone:		Evening Phone:	
Email Address:			
ASSETS/LIABILITIES		MONTHLY INCOME DATA	
DESCRIPTION	Estimated Value	Amount Owed	Net Value
Primary Residence			
Other Real Estate			
Automobile:			
Automobile:			
Checking Account:			
Savings Account:			
IRA/Keough Accts:			
401 (k) Acct:			
Stocks/Bonds/CD's:			
Boats:			
Collections/Art/Etc:			
Personal Items:			
		NET INCOME:	
ACKNOWLEDGEMENT and AUTHORIZATION			
ACKNOWLEDGEMENT			
I obtained a Mortgage loan secured by the above referenced mortgaged property. I have described my current financial condition with this Financial Statement form and I certify that all information presented herein, as well as all attachments is true, accurate, and correct to the best of my knowledge. I understand that submission of this information in no way obligates my Lender, Mortgage Servicer, Investor or Insurer to provide assistance to me.			
AUTHORIZATION			
By signing this Financial Statement, I hereby authorize my lender, Mortgage Servicer, Insurer and their respective agents to order a credit report and verify any and all employment and account information.			
Borrower Signature		Date	Co-Borrower Signature
			Date

MONTHLY EXPENDITURES

DESCRIPTION	MONTHLY DUE	BALANCE DUE	DELINQUENT Y/N?
<u>Household Expenses:</u>			
Mortgage Payment			
Other Mortgages			
Alimony /Child Support			
Child Care			
Electric /Gas /Heat			
Water /Sewage			
Telephone /Internet			
Food for Household			
School /Work Lunches			
Clothing /Dry Cleaning			
Cable TV /Satellite			
Total Household Expenses	\$		
<u>Credit Card Expenses:</u>			
VISA			
MASTER CARD			
DEPT STORE CREDIT			
Other Credit Cards			
Total Credit Card Expenses	\$		
<u>Auto Expenses:</u>			
Auto Loan #1			
Auto Loan #2			
Auto Insurance			
Gasoline			
Auto Repairs			
Parking			
Total Auto Expenses	\$		
<u>Personal Loans:</u>			
Personal Loan #1			
Personal Loan #2			
Total Personal Loans	\$		
<u>Ins./Medical Expenses:</u>			
Health Insurance			
Life Insurance			
Doctors/Dentists			
Prescriptions			
Medical bills			
Total Ins/Medical Expenses	\$		
<u>Miscellaneous Expenses:</u>			
Charity /Donations			
Union Dues /Club Dues			
Entertainment			
Sports /Hobbies			
Vacations			
MISC. Expense #1			
MISC. Expense #2			
MISC. Expense #3			
Total Misc Expenses	\$		
TOTAL EXPENSES	\$		

***Please note: DO NOT list bills in the MONTHLY DUE column if they are a "onetime" debt.
Please NOTATE if any of the above bills are deducted from your paycheck.
Please NOTATE any loans which will be paid in full within the next 6 months.

AFTER RECORDING RETURN TO:

Shapiro & Sutherland, LLC
5501 N.E. 109th Court, Suite N
Vancouver, WA 98662
10-105984

Affidavit of Compliance with Oregon ORS 86.737

County Clerk Recording Info: Volume M05, Page 69198

Grantor (name): James Edward Smith, a married person, Dottie S. Smith, a married person

Trustee (name): First American Title

Original Beneficiary (name): PHH Mortgage Services

Assignee(s), if any (name(s)): PHH Mortgage Corporation

Original Loan Amount: \$106,250.00

Borrower name(s): Smith, James Edward & Dottie S.

Property Address: 3515 Bisbee Street, 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

In the regular course of its business the Beneficiary or its authorized agent creates and maintains records relating to its loans. Copies of the documents are promptly placed in a file specific to each loan once they are received. The copies of documents attached hereto as exhibits are copies from the specific loan file and are not materially altered from the form of the document in the file. The Beneficiary or its authorized agent relies upon these documents to determine whether to make loans, and in servicing the loan. The system does not allow for deletion or alteration of entries once made to avoid alteration of the history and to maintain an accurate record of transactions as entered in the system.

The undersigned further 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.** The borrower failed to return the Loan Modification Request Form ("Form") required by ORS 86.737 ("Law:") sent by the Foreclosure Trustee, to the address required on the Notice or Form, by the date set forth on the Notice; the date was more than 30 days after the date the Trustee signed the foreclosure notice sent to Borrower by Trustee with the Form ("deadline date").

☐ **Meeting Requested But Borrower Unavailable to Schedule Meeting.** Borrower requested a meeting prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The beneficiary or beneficiary's authorized agent attempted to contact the borrower by the methods contemplated by "Law" within the time period required by the Law after 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 prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The beneficiary or beneficiary's authorized agent timely contacted Borrower by the methods allowed by the 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. After Evaluation, Borrower Deemed Ineligible. Request Denied.** Borrower requested a loan modification prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The loan modification request was evaluated in good faith within required time period under the Law. 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 the required time period under the Law after receiving Borrower's Form or, if applicable additional information, the beneficiary or beneficiary's authorized agent notified Borrower that Borrower is ineligible for a loan modification. The beneficiary or the beneficiary's agent provided notice to the borrower that included an explanation of how the beneficiary or beneficiary's agent calculated that the grantor was not eligible for a loan modification.
- [] **Loan Modification Requested. For Non-Financial Reasons, Request Denied.** Borrower requested a loan modification prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The loan modification request was evaluated in good faith within required time period under the Law. Within the required time period under the Law after receiving Borrower's Form or, if applicable additional information, 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 prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The loan modification request was evaluated in good faith within required time period under the Law. Within the required time period under the Law after receiving Borrower's Form or, if applicable additional information, 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 prior to the deadline date set forth on the Notice, sending the Form to the address required on the Notice or Form. The loan modification request was evaluated in good faith within required time period under the Law, 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 required time period under the Law, of the beneficiary's receipt of Borrower's Loan Modification Request Form or, if applicable, additional information, the beneficiary or beneficiary's authorized agent notified borrower that borrower's request for a loan modification was denied.

[] Other (Specify):

DATED: March 2, 2011

By: Lawrence Riggs
Typed Name: Lawrence Riggs
Title: AVP

State of New Jersey)
County of Burlington) ss.

This instrument was acknowledged before me on March 2, 2011 by
Lawrence Riggs as AVP of
PTH Mortgage Corp

Alice P. Harden
Notary signature

My commission expires ALICE P. HARDEN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/17/2013