

2011-003603

Klamath County, Oregon



00098986201100036030040048

03/16/2011 09:48:58 AM

Fee: \$52.00

After recording return to:)

John and Jeannine Wencil)

Wencil Living Trust U/A 3/19/96)

POB 4243)

Medford OR)

97501)

Until a change is requested,)

all tax statements shall be)

sent to the following address:)

John and Jeannine Wencil)

Wencil Living Trust U/A 3/19/96)

POB 4243)

Medford, OR 97501)

NON-MERGER DEED IN LIEU OF FORECLOSURE

This Non-Merger Deed in Lieu of Foreclosure is made, executed and entered into effective this 27 day of January, 2011, by and among JAMES E. HOLT and WILLAMAE HOLT, as Trustees of the Holt Loving Trust U/A 5/15/2001 (hereinafter referred to as "Grantor") and JOHN WENCL and JEANNINE WENCL, as Trustees of the Wencil Living Trust U/A 3/19/96 (hereinafter referred to as "Grantee").

Grantor owns fee simple title to the real property and improvements located in Klamath County, Oregon and legally described as follows:

Parcel 1:

Beginning at a point in Section 36, 656.1 feet North of point 766.1 feet West of the corner common to Townships 39 and 40 South, Ranges 7 and 8 East of the Willamette Meridian, Klamath County, Oregon; thence West, a distance of 208.7 feet to a point; thence North a distance of 104.35 feet to a point; thence East a distance of 208.7 feet to a point; thence South a distance of 104.35 feet to the point of beginning.

Parcel 2:

A tract of land in the SE ¼ SE ¼ Section 36, Township 39 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon as follows: Beginning at a point 656.1 feet North of a point 766.1 feet West of the corner of Townships 39 and 40 South, Ranges 7 and 8 East of the Willamette Meridian; thence North 104.35 feet to the Southeast corner of property herein conveyed being the true point of beginning; thence

West 208.7 feet; thence North 104.35 feet; thence East 208.7 feet; thence South 104.35 feet to the point of beginning.

For informational purposes only, the following is included:
Map No. R-3907-036DO-02100-000, R-3907-036DO-02200-000, and R-3907-036DO-02300-000, along with all improvements thereon, including but not limited to the 1974 Concord mobile home (Map No. M-099178, Key No. M42830) and the 1966 Champion mobile home (Map No. M-101945; Key No. M872202).

all of which is hereafter referred to as the "Subject Property."

To evidence and secure certain amounts owing by Grantor, Grantor executed and delivered to Grantee the following loan documents, which are hereafter collectively referred to as "the Loan Documents":

- (a) Promissory Note dated November 9, 2006, in the principal amount of \$321,800.00 and payable to Grantee (the "Note"); and
- (b) Trust Deed dated November 9, 2006, and recorded in the Official Records of Klamath County, Oregon, on November 13, 2006, as Document No. 2006-022608, covering the Subject Property (the "Trust Deed").

Grantor acknowledges and agrees that the Note is in default, that Grantee is entitled to foreclose the Trust Deed, and that Grantor has no legal or equitable defenses or counterclaims to a foreclosure action. The parties desire to resolve the defaults under the Loan Documents by providing for the conveyance of the Subject Property and the improvements thereon to Grantee;

WHEREFORE, IN CONSIDERATION OF the agreement of PFS, Inc. and Grantee to seek no further relief from Grantor with respect to the Subject Property, as well as the mutual promises set forth herein and in the Settlement Agreement executed by the parties contemporaneously herewith, Grantor hereby grants, conveys, transfers, and warrants to Grantee and Grantee's successors and assigns the Subject Property and all improvements thereon, together with all of the tenements, hereditaments, interests, easements, licenses, rights, privileges, fixtures, and appurtenances now or hereafter belonging to, located on or used in connection with the Subject Property, which shall include, without limiting the generality of the foregoing, the 1974 Concord mobile home (Map No. M-099178, Key No. M42830) and the 1966 Champion mobile home (Map No. M-101945; Key No. M872202) located thereon, all rents received for the Subject Property after the date of execution of this deed by Grantor, and the issues, profits and income, including all deposits and other amounts under any existing or future rental agreements for the Subject Property.

Grantor, for itself, its successors and assigns, covenants to and with Grantee and Grantee's successors and assigns, that Grantor is lawfully seized in fee simple of the Subject Property free and clear of all encumbrances, including any liens which may be filed hereafter and arising out of material, supplies or labor supplied to the Subject Property prior hereto, excepting the Trust Deed, and further excepting those encumbrances of record as of the date of said Trust Deed; and that Grantor will forever warrant and defend the Subject Property and every part and parcel thereof against all lawful claims and demands of all persons whomsoever, other than the liens expressly excepted above. Grantor further agrees that with respect to the Subject Property, Grantee will be entitled to relief from any automatic stay in bankruptcy and that from and after the date of this instrument Grantor will not claim the Subject Property as an asset of any bankruptcy estate.

Grantor acknowledges and agrees that the conveyance of the Subject Property to Grantee according to the terms of this Non-Merger Deed in Lieu of Foreclosure is an absolute conveyance of all of Grantor's right, title, and interest in and to the Subject Property in fact as well as form, and is not now intended as a mortgage, trust conveyance, deed of trust, or other security instrument of any kind, the consideration for such conveyance being exactly as recited herein; that Grantor has no further interest (including rights of redemption) or claims in and to the Subject Property, or to the proceeds and profits that may be derived therefrom, of any kind whatsoever; that possession of the Subject Property hereby is surrendered and delivered to Grantee; that in executing this Deed, Grantor is not acting under any misapprehension as to the effect thereof or any duress, undue influence, or misrepresentation by Grantee, or Grantee's representatives, agents or attorneys; and that at this time, there is no person, partnership, LLC or corporation other than Grantee interested in the Subject Property, directly or indirectly, in any manner whatsoever, except for encumbrances of record. It is the express intent of Grantee and Grantor that the interest of Grantee, as owner, shall not merge with the interest of Grantee, as beneficiary, under the Trust Deed, so as to forfeit or in any way prejudice the rights of Grantee with respect to the Subject Property, but shall be and remain at all times separate and distinct, notwithstanding any union of said interests in Grantee at any time by purchase, termination, or otherwise; and that the lien of Grantee in the Subject Property shall be and remain at all times a valid and continuous lien upon the Subject Property and may be foreclosed by Grantee.

Upon the recording of this document, Grantor waives, surrenders, conveys and relinquishes any equity or redemption and statutory rights of redemption Grantor may now have or may have in the future concerning the Subject Property and the Trust Deed.

Grantor acknowledges and agrees that nothing herein will affect the rights and remedies of Grantee under the Note and Trust Deed and understands that Grantee can proceed with a foreclosure even after this document is recorded.

The following disclaimer is made pursuant to ORS 93.040:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated: January 27th, 2011.

"GRANTOR"

James E. Holt
By: James E. Holt, Trustee
Holt Loving Trust U/A 5/15/2001

Willamae Holt
By: Willamae Holt, Trustee
Holt Loving Trust U/A 5/15/2001

STATE OF OREGON)
) ss.
County of Jackson)

This instrument was acknowledged before me on this ____ day of January, 2011, by James E. Holt and Willamae Holt, the trustees of the Holt Loving Trust U/A 5/15/2001.

Before me: Brandi ELO

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[Signature]
Notary Public for Oregon
My commission expires: June 20, 2014