

2011-004162

Klamath County, Oregon



0009666201100041620120122

03/29/2011 03:22:58 PM

Fee: \$107.00

1662778

After Recording, Return to:

Frank C. Rote, III, Attorney

612 N. W. Fifth Street

Grants Pass, OR 97526

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE**RE: Trust Deed From**Philip K. Swisher and Lana A. Swisher,
Grantor,

to

Amerititle,

Trustee,

Affidavit of Publication
Affidavit of Compliance
Proof of Service

STATE OF OREGON, County of Josephine} ss.

I, Frank C. Rote, III, the undersigned, 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 notice of sale given under the terms of that certain deed described in the notice of sale.

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:

Name of Person

Lana A. Swisher

Philip K. Swisher

US National Bank, NA

US Bank Trust Company, NA

Address

5443 Knightwood Lane, Klamath Falls, OR 97603

2825 Eastmount St., Klamath Falls, OR 97603

4325 17th Avenue SW, Fargo, ND 58103

111 SW Fifth Avenue, Ste 2200, Portland, OR 97204

These 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) any person, 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 any person 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 notice of sale by Frank C. Rote as successor trustee named in the notice. 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 Grants Pass, Oregon, on the 16th day of December, 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 an amount sufficient to accomplish the same. Each such notice was mailed after the Notice of Default and Election to Sell described in the notice of sale was recorded.

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

December 16, 2010.

FRANK C. ROTE, III, Successor Trustee

SIGNED AND SWORN TO before me on this 16th day of December, 2010, by Frank C. Rote, III, Successor Trustee.

Sharon K. Kittson
 Notary Public for Oregon

After Recording, Return to:

Frank C. Rote, III, Attorney
612 NW Fifth Street
Grants Pass, OR 97526

**INSTRUCTIONS FOR SERVICE OF TRUSTEE'S NOTICE OF SALE UPON OCCUPANT
PURSUANT TO ORS 86.750(1) AND PROOF OF SERVICE (120- Day Notice)**

RE: Trust Deed From

Philip K. Swisher and Lana A. Swisher,
Grantor,
to
Amerititle,
Trustee,

TRUSTEE'S INSTRUCTIONS to the person who serves the Trustee's Notice of Sale attached hereto:

STATE OF OREGON, County of Josephine) ss.

I, the undersigned, being first duly sworn, depose and say:

I am the Successor Trustee in the trust deed described in the attached Trustee's Notice of Sale.

You are hereby directed to serve the Trustee's Notice of Sale in the manner in which a summons is served pursuant to ORCP 7D(2) and 7D(3) upon the occupant of the property described in the Notice of Sale.

The name of the person to be served, if known, and the property address of the property described in the trust deed as follows:

Name of Person to be served

Property Address to Serve at

Occupants (Unknown)

5443 Knightwood Drive, Klamath Falls, OR 97603

Philip K. Swisher and Lana A. Swisher

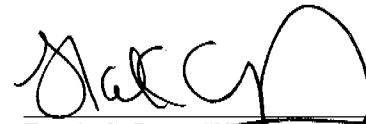
5443 Knightwood Drive, Klamath Falls, OR 97603

If the occupant is indicated as "unknown," or if you find the property at this address to be occupied by someone other than the person named, then you are to serve the person or persons whom you find to be occupying the property.

Service should be made by December 27, 2011, which is 120 days before the date fixed for the sale in the attached notice. If you have not made service by that date, and the property appears occupied, persist in attempting to make service until it has been accomplished.

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

December 16, 2010



Frank C. Rote, III, Successor Trustee

SIGNED AND SWORN TO before me on this 16th day of December, 2010, by Frank C. Rote, III, Successor Trustee.



Notary Public for Oregon

TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by **PHILIP K. SWISHER and LANA A. SWISHER**, as grantor, to **AMERITITLE**, as trustee, in favor of **SOFCU COMMUNITY CREDIT UNION, HIGHLAND BRANCH**, as beneficiary, dated December 3, 2004, recorded on December 13, 2004 in the Official Records of Klamath County, Oregon, as Document No. M04 Page 85369 covering the following described real property situated in that county and state, to-wit:

Lot 18 in Block 9 of TRACT NO. 1064 – FIRST ADDITION TO GATEWOOD, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Said real property is commonly known as: 5443 Knightwood Drive, Klamath Falls, OR 97603.

FRANK C. ROTE, III, Attorney, OSB #893898, is now the Successor Trustee. His office is located at 612 NW Fifth Street, Grants Pass, OR 97526. His telephone number is (541) 479-2678.

Both the beneficiary and/or the trustee have elected to sell the real property to satisfy the obligations secured by the trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default for which the foreclosure is made in grantor's failure to pay when due the following sums: Monthly payments of \$661.51 beginning October 1, 2010, plus monthly late charges of \$33.07 beginning with the October 2010 payment; together with title expense, costs, trustee's fees and attorney fees incurred herein by reason of said default; and any further sums advanced by the beneficiary for the protection of the above described real property and its interests therein.

By reason of the default just described, the beneficiary has declared all sums owing on the obligation that the trust deed secures immediately due and payable, those sums being the following, to-wit: \$112,990.26 with interest thereon at the rate of 4.8750% per annum from September 14, 2010, until paid, plus all accrued late charges therein together with title expense, costs, trustee's fees and attorney fees incurred herein by reason of said default; and any further sums advanced by the beneficiary for the protection of the above described real property and its interests therein.

WHEREFORE, notice is hereby given that the beneficiary on April 26, 2011, at the hour of 10:00 o'clock am, in accord with the standard of time established by ORS 187.110, at the front steps of the offices of First American Title Company, 404 Main Street, Klamath Falls, Klamath County, State of Oregon, the interest in the real property described above which the grantor had or had power to convey at the time the grantor executed the trust deed together with any interest which the grantor or grantor's successors in interest acquired after the execution of the trust deed will be sold by the undesignated trustee at public auction to the highest bidder for cash to satisfy the foregoing obligations thereby secured and the costs and expenses of the sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 that the right exists under ORS 86.753 to have proceeding dismissed and the trust deed reinstated by paying the entire amount then due, together with costs, trustee's fees and attorney fees, and by curing any other default complained of in the notice of default, at any time that is not later than five days before the date last set for the sale.

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 the trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

NOTICE TO RESIDENTIAL TENANTS

5443 Knightwood Drive, Klamath Falls, OR 97603

The property in which you are living is in foreclosure. A foreclosure sale is scheduled for April 26, 2011. Unless the lender who is foreclosing on this property is paid, the foreclosure will go through and someone new will own this property.

The following information applies to you only if you occupy and rent this property as a residential dwelling under a legitimate rental agreement. The information does not apply to you if you own this property or if you are not a residential tenant.

If the foreclosure goes through, the business or individual who buys this property at the foreclosure sale has the right to require you to move out. The buyer must first give you an eviction notice in writing that specifies the date by which you must move out. The buyer may not give you this notice until after the foreclosure sale happens. If you do not leave before the move-out date, the buyer can have the sheriff remove you from the property after a court hearing. You will receive notice of the court hearing.

FEDERAL LAW REQUIRES YOU TO BE NOTIFIED

IF YOU ARE OCCUPYING AND RENTING THIS PROPERTY AS A RESIDENTIAL DWELLING UNDER A LEGITIMATE RENTAL AGREEMENT, FEDERAL LAW REQUIRES THE BUYER TO GIVE YOU NOTICE IN WRITING A CERTAIN NUMBER OF DAYS BEFORE THE BUYER CAN REQUIRE YOU TO MOVE OUT. THE FEDERAL LAW THAT REQUIRES THE BUYER TO GIVE YOU THIS NOTICE IS EFFECTIVE UNTIL DECEMBER 21, 2012. Under federal law, the buyer must give you at least 90 days' notice in writing before requiring you to move out. If you are renting this property under a fixed-term lease (for example, a six-month or one-year lease), you may stay until the end of your lease term. If the buyer wants to move in and use this property as the buyer's primary residence, the buyer can give you written notice and require you to move out after 90 days, even if you have a fixed-term lease with more than 90 days left.

STATE LAW NOTIFICATION REQUIREMENTS

IF THE FEDERAL LAW DOES NOT APPLY, STATE LAW STILL REQUIRES THE BUYER TO GIVE YOU NOTICE IN WRITING BEFORE REQUIRING YOU TO MOVE OUT IF YOU ARE OCCUPYING AND RENTING THE PROPERTY AS A TENANT IN GOOD FAITH. EVEN IF THE FEDERAL LAW REQUIREMENT IS NO LONGER EFFECTIVE AFTER DECEMBER 31, 2012, THE REQUIREMENT UNDER STATE LAW STILL APPLIES TO YOUR SITUATION. Under state law, if you have a fixed-term lease (for example, a six-month or one-year lease), the buyer must give you at least 60 days' notice in writing before requiring you to move out. If the buyer wants to move in and use this property as the buyer's primary residence, the buyer can give you written notice and require you to move out after 30 days, even if you have a fixed term lease with more than 30 days left.

If you are renting under a month-to-month or week-to-week rental agreement, the buyer must give you at least 30 days' notice in writing before requiring you to move out.

IMPORTANT: For the buyer to be required to give you notice under state law, you must prove to the business or individual who is handling the foreclosure sale that you are occupying and renting this property as a residential dwelling under a legitimate rental agreement. The name and address of the business or individual who is handling the foreclosure sale is shown on this notice under the heading "TRUSTEE". You must mail or deliver your proof not later than March 27, 2011 (30 days before the date first set for the foreclosure sale). Your proof must be in writing and should be a copy of your rental agreement or lease. If you do not have a written rental agreement or lease, you can provide other proof, such as receipts for rent you paid.

ABOUT YOUR SECURITY DEPOSIT

Under state law, you may apply your security deposit and any rent you paid in advance against the current rent you owe your landlord. To do this, you must notify your landlord in writing that you want to subtract the amount of your security deposit or prepaid rent from your rent payment. You may do this only for the rent you owe your current landlord. If you do this, you must do so before the foreclosure sale. The business or individual who buys this property at the foreclosure sale is not responsible to you for any deposit or prepaid rent you paid to your landlord.

ABOUT YOUR TENANCY AFTER THE FORECLOSURE SALE

The business or individual who buys this property at the foreclosure sale may be willing to allow you to stay as a tenant instead of requiring you to move out. You should contact the buyer to discuss that possibility if you would like to stay. Under state law, if the buyer accepts rent from you, signs a new residential rental agreement with you or does not notify you in writing within 30 days after the date of the foreclosure sale that you must move out, the buyer becomes your new landlord and must maintain the property. Otherwise, the buyer is not your landlord and is not responsible for maintaining the property on your behalf and you must move out by the date the buyer specified in a notice to you.

YOU SHOULD CONTINUE TO PAY RENT TO YOUR LANDLORD UNTIL THE PROPERTY IS SOLD TO ANOTHER BUSINESS OR INDIVIDUAL OR UNTIL A COURT OR LENDER TELLS YOU OTHERWISE. IF YOU DO NOT PAY RENT, YOU CAN BE EVICTED. AS EXPLAINED ABOVE, YOU MAY BE ABLE TO APPLY A DEPOSIT YOU MADE OR PREPAID RENT YOU PAID AGAINST YOUR CURRENT RENT OBLIGATION, BE SURE TO KEEP PROOF OF ANY PAYMENTS YOU MAKE AND OF ANY NOTICE YOU GIVE OR RECEIVE CONCERNING THE APPLICATION OF YOUR DEPOSIT OR YOUR PREPAID RENT.

IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR HOME WITHOUT FIRST GOING TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS, YOU MAY WISH TO CONSULT A LAWYER. If you believe you need legal assistance, contact the Oregon State Bar at 1-503-620-0222 or toll-free in Oregon at 1-800-452-8260 or you may visit its website at www.osbar.org and ask for the lawyer referral service. 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>.

FAIR DEBT COLLECTION PRACTICE NOTICE

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

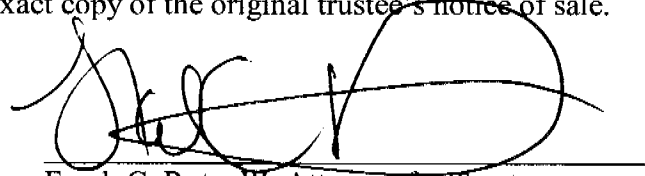
DATED this 16th day of December, 2010



Frank C. Rote, III, OSB # 893898
612 NW Fifth Street, Grants Pass, OR 97526
(541) 479-2678

State of Oregon)
) ss.
County of Josephine)

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.



Frank C. Rote, III, Attorney for Trustee

SUBSCRIBED AND SWORN to before me this 16th day of December, 2010, by Frank C. Rote, III, Attorney for Trustee.


Notary Public for Oregon



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: 5443 Knightwood Drive, 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."

The amount you would have had to pay as of December 15, 2010, to bring your mortgage loans current was \$2,083.74. The amount you must now pay to bring your loan current may have increased since that date.

By law, your lender has to provide you with details about the amount you owe, if you ask. You may call Frank C. Rote, III, Attorney, at (541) 479-2678 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:
FRANK C. ROTE, III, Attorney, 612 NW Fifth Street, Grants Pass, OR 97526.

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

Date and time: April 26, 2011, at 10:00 a.m.

Place: Front steps of First American Title Company, 404 Main Street, Klamath Falls, Klamath County, Oregon.

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 contact your lender to find out if they are 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 telephone contact number at **800-SAFENET (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 **1-503- 620-0222** or toll-free in Oregon at **1-800-452-8260** 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 (541) 471-8644. If you cannot 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: **800-SAFENET (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 January 15, 2011, WHICH IS 30 DAYS AFTER THE DATE SHOWN BELOW.

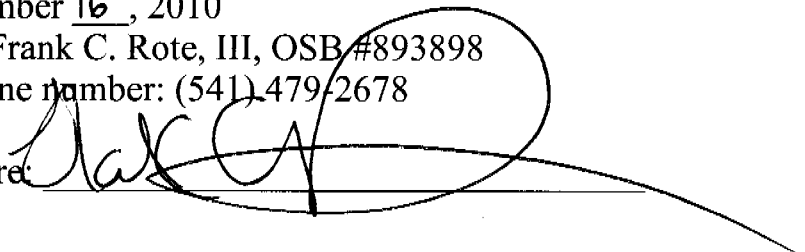
WARNING: You may get offers from people who tell you they can help you keep your property. You should be careful about those offers. Make sure you understand any papers you are asked to sign. If you have any questions, talk to a lawyer or one of the organizations mentioned above before signing.

DATED: December 16, 2010

Trustee name: Frank C. Rote, III, OSB #893898

Trustee telephone number: (541) 479-2678

Trustee signature:

A large, stylized handwritten signature in black ink, likely belonging to Frank C. Rote, III, is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

**STATE OF OREGON
MODIFICATION REQUEST FORM**

PROPERTY ADDRESS: 5443 Knightwood Drive
Klamath Falls, OR 97603

LOAN #
APN#: R576193

TRUSTEE: Frank C. Rote, III

DoT: 12/13/2004

Inst.#: M04 Page 85369

****ATTENTION – YOU MUST ACT BY JANUARY 15, 2011 **
IF NO ACTION IS TAKEN, THE FORECLOSURE MAY PROCEED**

Your Name(s): _____

Co-owner's Name: _____

Address: _____

Address: _____

Phone No: () _____ (telephone)
() _____ (cellular)

Phone No: () _____ (telephone)
() _____ (cellular)

Email: _____

Email: _____

In order for us to determine your eligibility for a loan modification, please provide the following information:

1. The amount of homeowner's association dues, if applicable _____
2. The monthly pre-tax income of each borrower on the loan _____

3. If you do not have an escrow account, please provide the following:
 - a. Amount of your last property tax bill _____
 - b. Amount of your homeowner's insurance bill _____
4. Description of your financial hardship _____

PLEASE COMPLETE THIS FORM AND MAIL TO:

Frank C. Rote, III, Successor Trustee
612 NW Fifth Street, Grants Pass, OR 97526

WITHIN 30 DAYS OF THE DATE ON THE ENCLOSED FORECLOSURE WARNING NOTICE.

**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 **5443 Knightwood Dr. Klamath Falls, OR 97603**

☒ **PERSONALLY SERVED:** Original or True Copy to within named, personally and in person to Lana Swisher 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.

1st Attempt:

2nd Attempt:

3rd Attempt:

☐ **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 December 28 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

Chelsa Mear

5443 Knightwood Dr. 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.

December 22, 2010

12:29 PM

DATE OF SERVICE

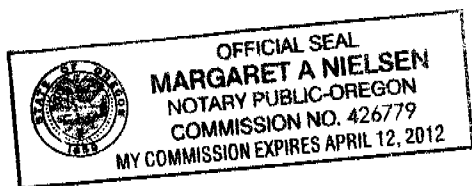
TIME OF SERVICE

☐ or non occupancy

By:

[Signature]

Subscribed and sworn to before on this 28th day of December, 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 # 13087

Trustee's Notice of Sale

Swisher

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:

February 08, 15, 22, March 01, 2011

Total Cost: \$884.12

Jeanine P Day
Subscribed and sworn by Jeanine P Day
before me on: March 1, 2011

Debra A Gribble
Notary Public of Oregon

My commission expires May 15, 2012

TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by PHILIP K. SWISHER and LANA A. SWISHER, as grantor, to AMERITITLE, as trustee, in favor of SOFCU COMMUNITY CREDIT UNION, HIGHLAND BRANCH, as beneficiary, dated December 3, 2004, recorded on December 13, 2004 in the Official Records of Klamath County, Oregon, as Document No. M04 Page 85369 covering the following described real property situated in that county and state, to-wit: Lot 18 in Block 9 of TRACT NO. 1064 FIRST ADDITION TO GATEWOOD, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. Said real property is commonly known as: 5443 Knightwood Drive, Klamath Falls, OR 97603. FRANK C. ROTE, III, Attorney, OSB #893898, is now the Successor Trustee. His office is located at 612 NW Fifth Street, Grants Pass, OR 97526. His telephone number is (541) 479-2678.

Both the beneficiary and/or the trustee have elected to sell the real property to satisfy the obligations secured by the trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default for which the foreclosure is made in grantor's failure to pay when due the following sums: Monthly payments of \$661.51 beginning October 1, 2010, plus monthly late charges of \$33.07 beginning with the October 2010 payment; together with title expense, costs, trustee's fees and attorney fees incurred herein by reason of said default; and any further sums advanced by the beneficiary for the protection of the above described real property and its interests therein.

By reason of the default just described, the beneficiary has declared all sums owing on the obligation that the trust deed secures immediately due and payable, those sums being the following, to-wit: \$112,990.26 with interest thereon at the rate of 4.8750% per annum from September 14, 2010, until paid, plus all accrued late charges therein together with title expense, costs, trustee's fees and attorney fees incurred herein by reason of said default; and any further sums advanced by the beneficiary for the protection of the above described real property and its interests therein.

WHEREFORE, notice is hereby given that the beneficiary on April 26, 2011, at the hour of 10:00 o'clock am, in accord with the standard of time established by ORS 187.110, at the front steps of the offices of First American Title Company, 404 Main Street, Klamath Falls, Klamath County, State of Oregon, the interest in the real property described above which the grantor had or had power to convey at the time the grantor executed the trust deed together with any interest which the grantor or grantor's successors in interest acquired after the execution of the trust deed will be sold by the undersigned trustee at public auction to the highest bidder for cash to satisfy the foregoing obligations thereby secured and the costs and expenses of the sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 that the right exists under ORS 86.753 to have proceeding dismissed and the trust deed reinstated by paying the entire amount then due, together with costs, trustee's fees and attorney fees, and by curing any other default complained of in the notice of default, at any time that is not later than five days before the date last set for the sale.

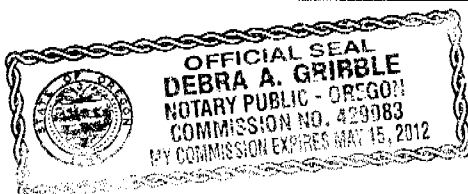
In construing this notice, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by the trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

DATED: December 16, 2010

Trustee name: Frank C. Rote, III, OSB #893898

Trustee telephone number: (541) 479-2678

#13087 February 08, 15, 22, March 01, 2011.



BENEFICIARY'S AFFIDAVIT OF COMPLIANCE

STATE OF OREGON)
) ss.
County of Josephine)

I, Frank C. Rote, III, being first duly sworn, depose and say that:


At all times hereinafter mentioned, I am the beneficiary, or the agent of the beneficiary, of that certain trust deed between Philip K. Swisher and Lana A. Swisher as grantors, Amerititle, as Trustee, and SOFCU Community Credit Union, Highland Branch, as Beneficiary, dated December 3, 2004 and recorded on December 13, 2004, in the Official Records of Klamath County, Oregon, as Document No. M04 Page 85369.

Trustee served the Residential Foreclosure Notice and the Modification Request Form on Grantor on December 16, 2010.

(Check one):

- ☒ Grantor did not return the Modification Request Form to the Lender by January 15, 2011, the date specified on the Notice.
- ☐ Grantor returned the Modification Request Form to the Beneficiary on _____, a date which is on or before January 15, 2011, the return date specified on the Notice.
- ☐ On _____, I requested additional information from Grantor to determine whether the loan can be modified.
- ☐ Grantor requested a meeting with me and I have, or have the ability to obtain, authority to modify the loan.
- ☐ I determined in good faith, after considering the most current financial information Grantor provided, that Grantor was not eligible for a loan modification and I declined to meet with Grantor for that reason.
- ☐ I contacted Grantor at Grantor's last known address, telephone number, or electronic mail address, and met with or spoke to Grantor on _____.
- ☐ I attempted to contact Grantor at Grantor's last known address, telephone number or electronic mail address. Seven days have elapsed since such attempt and Grantor has not responded. I have no further obligation to meet with Grantor.

On _____, I timely responded to Grantor's request.


Frank C. Rote, III, Successor Trustee

SIGNED AND SWORN TO before me on the 17th day of January, 2011, by Frank C. Rote, III, Successor Trustee.




Notary Public for Oregon