

UTC 88730

2011-004181

Klamath County, Oregon



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03/30/2011 11:37:47 AM

Fee: \$122.00

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:

Boivin, Uerlings & DiIaconi
803 Main Street, Suite 200
Klamath Falls, OR 97601

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

TRUSTEE'S NOTICE OF SALE
AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE
NOTICE OF NONJUDICIAL SALE
AFFIDAVIT OF MAILING NOTICE OF INTENT TO REMOVE TENANTS FOLLOWING FORECLOSURE
INSTRUCTIONS FOR SERVICE OF TRUSTEE'S NOTICE OF SALE AND PROOF OF SERVICE

2. Direct Party (Grantor):

Ernst Brothers, LLC

3. Indirect Party (Grantee):

4. True and Actual Consideration Paid:

5. Legal Description:

See attached

137AhA

BE.

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by Ernst Brothers, LLC

as grantor,
 to EARNCO, as trustee,
 in favor of South Valley Bank and Trust, as beneficiary,
 dated December 30, 2002, recorded on January 15, 2003, in the Records of
Klamath County, Oregon, in ~~XXXXXX~~ ☒ volume No. M03 at page 2790,
~~and/or as trustee in the instrument~~ ☒ ~~reception No.~~ ☒ ~~XXXXXXXXXXXXXXXXXXXX (indicate which)~~, covering the following
 described real property situated in that county and state, to-wit:

See Exhibit 1, attached hereto and incorporated by this reference.

NOTE: The Trust Deed includes other real property not included in this foreclosure.

Both the beneficiary and 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: 1) Failure to make loan payments due on Oct 1, 2009 and thereafter; 2) Failure to pay real estate taxes for 2005 to present; 3) Failure to maintain insurance on real property; 4) Failure to provide financial information; and 5) Properties are understood to be contaminated by hazardous substance(s). Borrower agreed to maintain compliance with all Environmental Laws, all applicable federal, state and local laws and regulations.

By reason of the default just described, the beneficiary has declared all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to-wit:

Balance of \$773,185.67, plus interest of \$12,115.80 through October 20, 2010 and \$140 in late fees to October 30, 2010, plus interest at 8.5% per annum and late fees until paid.

WHEREFORE, notice is hereby given that the undersigned trustee will on April 6, 2011, at the hour of 11 o'clock, A.M., in accord with the standard of time established by ORS 187.110, at

803 Main Street, Ste 201
 in the City of Klamath Falls, County of Klamath, State of Oregon, sell at public auction to the highest bidder for cash the interest in the real property described above which the grantor had or had power to convey at the time of the execution by grantor of the 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 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 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 those 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 and attorney fees not exceeding the amounts provided by ORS 86.753.

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 1, 2010

James R. Uerlings, Successor Trustee, ~~Trustee~~

803 Main Street, Ste 201

ADDRESS

(541)

Klamath Falls

OR

97601

ZIP

884-8101

PHONE

CITY

STATE

I 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.

(CONTINUED)

Attorney for Trustee



NOTICE TO RESIDENTIAL TENANTS*

The property in which you are living is in foreclosure. A foreclosure sale is scheduled for _____. 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 31, 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 _____ (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 specifies 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 A 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 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 or you may visit its website at www.osbar.org. 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 www.oregonlawhelp.org.

SERVE:** _____

*ORS 86.750(2)(b) states, in relevant part: "The copy of the notice of sale required to be published * * * does not need to include the notice to tenants required under ORS 86.745(9)."

**If the foregoing is a copy to be served pursuant to ORS 86.740 or ORS 86.750(1), fill in the name and address of party to be served. Pursuant to ORS 86.740(2), a notice served by mail in accordance with ORS 86.740(1) is effective when the notice is mailed. The effective date of a notice served on an occupant of the premises in accordance with ORS 86.750 is the date of personal service pursuant to ORS 86.750(1)(a) or the date of first posting pursuant to ORS 86.750(1)(b)(A).

EXHIBIT 1
LEGAL DESCRIPTION

TRACT 1:

A piece or parcel of land situated in the NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and more particularly described as follows:

Beginning at an iron pipe which is South 0° 06' West 323.4 feet and North 89° 49' West 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which point of beginning is also the Northeast corner of that certain tract of land conveyed to Elmer W. and Flora M. Zigler on page 238, Deed Volume 278 of the Records of Klamath County, Oregon; thence North 89° 49' West along the Northerly boundary of said tract of land conveyed on page 238 Deed Volume 278, a distance of 334.8 feet to an iron pipe set at its intersection with a line which is parallel to and 192.77 feet Northeasterly of, when measured at right angles to, the Northeasterly right of way line of the Dalles-California Highway (No. US 97) as the same is now located across said Section 19; thence North 38° 52' West parallel to and 192.77 feet distant from said Northeasterly highway right of way line a distance of 147.25 feet to an iron pipe; thence South 89° 49' East a distance of 427.3 feet to an iron pipe; thence South 0° 06' West a distance of 114.35 feet more or less, to the point of beginning.

TRACT 2:

Beginning at a point which is South 0° 06' West a distance of 477.4 feet and North 89° 49' West a distance of 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence North 0° 06' East a distance of 154 feet to a point; thence North 89° 49' West a distance of 336 feet, more or less, to a point on a line which is parallel to and distant 192.77 feet at right angles from the Northeasterly right of way line of the Dalles-California Highway; thence South 38° 52' East a distance of 200 feet, more or less, to a point which is North 0° 06' East a distance of 211.1 feet from the North line of Byrd Avenue in Chelsea Addition; thence South 89° 49' East a distance of 210.2 feet to the place of beginning, being in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

TOGETHER WITH an easement for ingress and egress as granted by instrument recorded September 26, 1986 in Volume M86, page 17486, Microfilm Records of Klamath County, Oregon.

TRACT 3:

All that portion of the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0° 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89° 49' West a distance of 174.2 feet to a point; thence South 0° 06' West a distance of 300.0 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0° 06' East a distance of 479.45 feet to a point; thence North 89° 44' West a distance of 427.3 feet to a point; thence North 38° 46' West a distance of 268.15 feet to a point on the North line of said Section 19; thence South 89° 44' East along said North line a distance of 833.95 feet to the point of beginning.

(Legal description continued)

EXCEPTING THEREFROM a tract of land situated in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0° 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89° 49' West a distance of 174.2 feet to a point; thence South 0° 06' West a distance of 89 feet to the True Point of Beginning of this description; thence continuing South 0° 06' West a distance of 211 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0° 06' East a distance of 211 feet to a point; thence South 89° 49' East 60 feet to the point of beginning.

AND EXCEPTING THEREFROM an Easterly portion thereof conveyed to The State of Oregon, by and through its Department of Transportation, by Warranty Deed recorded May 5, 2003 in Volume M03, page 29566, Microfilm Records of Klamath County, Oregon, being more particularly described as follows:

A parcel of land lying in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and being a portion of that property designated as Parcel 3 and described in that deed to Ernst Brothers LLC, recorded in Book M00, page 13950, Microfilm Records of Klamath County, Oregon, the said parcel being that portion of said property described as follows:

Beginning at the Northeast corner of Section 19; thence Southerly along the East line of Section 19, a distance of 118.415 meters to the Northerly line of that property described in that deed to Alvin M. Hamlin, Trustee and Merry Anne Hamlin, Trustee, recorded in Book M96, page 5936, Microfilm Records of Klamath County, Oregon; thence Westerly along said Northerly line, a distance of 40.300 meters; thence Northerly on a line parallel with and 40.300 meters Westerly of the East line of Section 19, a distance of 32.433 meters; thence Easterly on a line parallel with and 86 meters Southerly of the North line of Section 19, a distance of 5.800 meters; thence Northerly on a line parallel with and 34.500 meters Westerly of the East line of Section 29, a distance of 86 meters to the North line of Section 19; thence Easterly along the North line of Section 19, 34.500 meters to the point of beginning.

TRACT 4:

Beginning at a point on the Northeasterly right of way line of State Highway No. 97 which lies South 0° 06' West along the East section line a distance of 688.5 feet and North 89° 49' West along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and North 38° 52' West along the Northeasterly right of way line of State Highway No. 97 (Note: State Highway bearing of this line shows North 39° 7 1/2' West) a distance of 130.55 feet from the iron axle which marks the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, running thence; continuing North 38° 52' West along the Northeasterly right of way line of State Highway No. 97, a distance of 250 feet to a point; thence North 51° 08' East a distance of 192.77 feet to a point; thence South 38° 52' East a distance of 250 feet to a point; thence South 51° 08' West a distance of 192.77 feet, more or less to the point of beginning, in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

TOGETHER WITH an easement for ingress and egress as granted by instrument recorded September 26, 1986 in Volume M86, page 17486, Microfilm Records of Klamath County, Oregon.

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 the 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 the sale is **April 6, 2011**. The name of the trustee and the trustee's mailing address are listed on this notice.

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 and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included with this notice.

ES

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

RE: Trust Deed from

Ernst Brothers, LLCPO Box 637Gilchrist, OR 97737

To

Grantor

South Valley Bank and Trust803 Main StreetKlamath Falls, OR 97601

Trustee

After recording, return to (Name, Address, Zip):

James R. Uerlings803 Main Street, Ste 201Klamath Falls, OR 97601

STATE OF OREGON,

County of _____ } ss.

I certify that the within instrument was received for recording on _____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ and/or as fee/file/instrument/microfilm/reception No. _____, Records of this County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy.

STATE OF OREGON, County of Klamath) ss:I, James R. Uerlings, 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

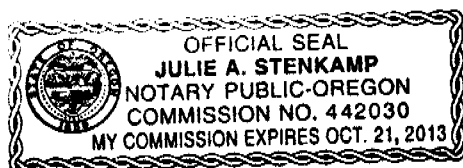
ADDRESS

(See attached list)

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 (d) 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 James R. Uerlings, attorney for the 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 Klamath Falls, Oregon, on December 1, 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 a successor trustee, and "person" includes a corporation and any other legal or commercial entity.



SIGNED AND SWORN TO before me on

March 28, 2011

Notary Public for Oregon

My commission expires

10/21/2013

* More than one form of affidavit may be used when the parties are numerous or when the mailing is done on more than one date. Pursuant to ORS 86.740(2), a notice served by mail in accordance with ORS 86.740(1) is effective when the notice is mailed.
PUBLISHER'S NOTE: An original notice of the sale, bearing the trustee's actual signature, should be attached to the foregoing affidavit.

Attachment to Affidavit of Mailing Trustee's Notice of Sale (Ernst Brothers, LLC)

<u>NAME</u>	<u>ADDRESS</u>
Carter-Jones Collection Service, Inc.	1143 Pine Street PO Box 145 Klamath Falls, OR 97601
Sysco Portland, Inc.	c/o Donald R. Slayton 143 West 8 th Avenue Eugene, OR 97401
Klamath County Tax Collector	305 Main Street, 1 st Floor Klamath Falls, OR 97601
Wayne G. Ernst & John S. Ernst, Personal Representatives of the Estate of William L. Ernst (members of Ernst Bros, LLC)	PO Box 637 Gilchrist, OR 97737
Debra Ernst, Conservator for William A. Ernst and John G. Ernst* *(member of Ernst Bros, LLC)	c/o John D. Sorlie Bryant, Lovlien & Jarvis PO Box 1151 Bend, OR 97709
Debra Ernst, Conservator for William A. Ernst and John G. Ernst* *(member of Ernst Bros, LLC)	c/o Bradford Aspell Aspell, Della-Rose & Richard 122 S 5 th Street Klamath Falls, OR 97601
Ed Staub & Sons Petroleum, Inc.	PO Box 528 Merrill, OR 97633
Cat Scale Company	PO Box 630 Walcott, IA 52773
Stephen Suty Suty Fuel & General Store, Inc.	2360 S 6 th Street Klamath Falls, OR 97601
State of Oregon Employment Department	875 Union Street NE, Rm 107 Salem, OR 97311
United States of America Internal Revenue Service	Small Business/Self Employed Area #6 IRS Advisory Group 915 2nd Avenue, MS W245 Seattle, WA 98174
John G. Ernst (member of Ernst Bros, LLC)	614 Grant Klamath Falls, OR 97601
William A. Ernst	614 Grant Klamath Falls, OR 97601
Mollies Restaurant & Lounge Again, LLC	c/o Kathleen S. Scott 3817 Hwy 97 N Klamath Falls, OR 97601

EC

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



NOTICE OF NONJUDICIAL SALE

RE Ernst Brothers, LLC, a Partnership, Lien Serial #601627609
TAXPAYER(S)

To the Secretary of the Treasury of the United States:

You are hereby notified of the proposed sale of the following described property: * 3817 Hwy 97 N, Klamath Falls, Oregon 97601, more particularly described on Exhibit 1, attached hereto and incorporated by this reference.

belonging to the above name taxpayer(s). The following information is given with respect thereto:

1. The proposed sale will be held at 803 Main Street, Ste 201, Klamath Falls, Oregon

on April 6, 2011, at 11 o'clock A.M., on

the following terms Cash sale by public auction to highest bidder. Sale to be the interest in the above real property the Ernst Brothers, LLC, a Partnership, had or had the power to convey at the time of its execution of the trust deed given to South Valley Bank & Trust, together with any interest that it or its successors acquired after the execution of the trust deed.

2. The approximate amount of the principal obligation, including interest, secured by the lien sought to be enforced, and a description of the other expenses which may be charged against the sale proceeds, are as follows:

Principal amount	\$ 773,185.67
Interest to date of sale (approximate)	\$ 25,000.00
Legal fees (approximate)	\$ 3,000.00
Selling costs (approximate)	\$ 500.00
Other (specify) <u>Late fees, trustee fees, postage, service fees, title</u>	\$ 20,000.00
Total <u>report fees, property taxes, and publication costs (approx)</u>	\$ 821,685.67

3. (A) A copy of each Notice of Federal Tax Lien (Form 668) affecting the property to be sold is attached hereto, OR

(B) The following information is given with respect to each Notice of Federal Tax Lien:

(Portland, OR)

(i) The Internal Revenue District named thereon: Small Business/Self Employed Area #6-Seattle, WA

(ii) Taxpayer Name(s): Ernst Brothers, LLC, a Partnership

Address PO Box 637, Gilchrist, OR 97737-0637

(iii) Date of filing lien: 12-08-2009; Place of filing: Klamath Falls, Klamath County, Oregon

☐ Check if Section (B) is used to supply information AND more than one lien is submitted. Provide above information with respect to each lien on an attached sheet, or on the reverse hereof.

4. The name and address of the person submitting this Notice of Sale is:

James R. Uerlings, Successor Trustee

NAME

803 Main Street, Ste 201

ADDRESS

Klamath Falls, Oregon

CITY

STATE

97601

ZIP

DATED December 8, 2010

*Provide a detailed description, including location, of the property affected by the notice (in case of real property, the street address, city and state and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title). In case of the sale of perishable property, include a statement of the reasons the property is believed to be perishable.

AFFIDAVIT OF MAILING

STATE OF OREGON, County of Klamath ss.

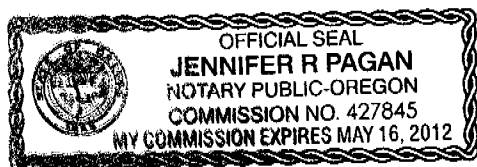
I, Julie A. Stenkamp

being first duly sworn, depose and say: On December 8, 2010, I notified the Secretary of the Treasury

of the United States of the proposed sale described in the foregoing Notice by mailing a copy of the Notice, together with any attachments described therein, to the delegate of the Secretary of the Treasury, to-wit: Chief, Special Procedures Section, District Director of Internal Revenue, 915 2nd Avenue, MS W245, Seattle, WA 98174

, all in conformity with applicable Income Tax Regulations promulgated by the Secretary of the Treasury; that the Notice and attachments were contained in a sealed envelope, addressed as stated, and deposited by me, with postage thereon fully prepaid, in the United States Registered or Certified Mail at the post office in Klamath Falls, Oregon on 12/08/2010, a date not less than twentyfive (25) days before the sale.

SIGNED AND SWORN TO before me on December 8, 2010



Jennifer R. Pagan
Notary Public for Oregon

My commission expires 5-16-12

Receipt and adequacy of the foregoing Notice is hereby acknowledged by the Internal Revenue Service.

DATED _____

By _____

Title _____

EXHIBIT 1
LEGAL DESCRIPTION

TRACT 1:

A piece or parcel of land situated in the NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and more particularly described as follows:

Beginning at an iron pipe which is South 0° 06' West 323.4 feet and North 89° 49' West 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which point of beginning is also the Northeast corner of that certain tract of land conveyed to Elmer W. and Flora M. Zigler on page 238, Deed Volume 278 of the Records of Klamath County, Oregon; thence North 89° 49' West along the Northerly boundary of said tract of land conveyed on page 238 Deed Volume 278, a distance of 334.8 feet to an iron pipe set at its intersection with a line which is parallel to and 192.77 feet Northeasterly of, when measured at right angles to, the Northeasterly right of way line of the Dalles-California Highway (No. US 97) as the same is now located across said Section 19; thence North 38° 52' West parallel to and 192.77 feet distant from said Northeasterly highway right of way line a distance of 147.25 feet to an iron pipe; thence South 89° 49' East a distance of 427.3 feet to an iron pipe; thence South 0° 06' West a distance of 114.35 feet more or less, to the point of beginning.

TRACT 2:

Beginning at a point which is South 0° 06' West a distance of 477.4 feet and North 89° 49' West a distance of 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence North 0° 06' East a distance of 154 feet to a point; thence North 89° 49' West a distance of 336 feet, more or less, to a point on a line which is parallel to and distant 192.77 feet at right angles from the Northeasterly right of way line of the Dalles-California Highway; thence South 38° 52' East a distance of 200 feet, more or less, to a point which is North 0° 06' East a distance of 211.1 feet from the North line of Byrd Avenue in Chelsea Addition; thence South 89° 49' East a distance of 210.2 feet to the place of beginning, being in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

TOGETHER WITH an easement for ingress and egress as granted by instrument recorded September 26, 1986 in Volume M86, page 17486, Microfilm Records of Klamath County, Oregon.

TRACT 3:

All that portion of the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0° 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89° 49' West a distance of 174.2 feet to a point; thence South 0° 06' West a distance of 300.0 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0° 06' East a distance of 479.45 feet to a point; thence North 89° 44' West a distance of 427.3 feet to a point; thence North 38° 46' West a distance of 268.15 feet to a point on the North line of said Section 19; thence South 89° 44' East along said North line a distance of 833.95 feet to the point of beginning.

(Legal description continued)

EXCEPTING THEREFROM a tract of land situated in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0° 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89° 49' West a distance of 174.2 feet to a point; thence South 0° 06' West a distance of 89 feet to the True Point of Beginning of this description; thence continuing South 0° 06' West a distance of 211 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0° 06' East a distance of 211 feet to a point; thence South 89° 49' East 60 feet to the point of beginning.

AND EXCEPTING THEREFROM an Easterly portion thereof conveyed to The State of Oregon, by and through its Department of Transportation, by Warranty Deed recorded May 5, 2003 in Volume M03, page 29566, Microfilm Records of Klamath County, Oregon, being more particularly described as follows:

A parcel of land lying in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and being a portion of that property designated as Parcel 3 and described in that deed to Ernst Brothers LLC, recorded in Book M00, page 13950, Microfilm Records of Klamath County, Oregon, the said parcel being that portion of said property described as follows:

Beginning at the Northeast corner of Section 19; thence Southerly along the East line of Section 19, a distance of 118.415 meters to the Northerly line of that property described in that deed to Alvin M. Hamlin, Trustee and Merry Anne Hamlin, Trustee, recorded in Book M96, page 5936, Microfilm Records of Klamath County, Oregon; thence Westerly along said Northerly line, a distance of 40.300 meters; thence Northerly on a line parallel with and 40.300 meters Westerly of the East line of Section 19, a distance of 32.433 meters; thence Easterly on a line parallel with and 86 meters Southerly of the North line of Section 19, a distance of 5.800 meters; thence Northerly on a line parallel with and 34.500 meters Westerly of the East line of Section 29, a distance of 86 meters to the North line of Section 19; thence Easterly along the North line of Section 19, 34.500 meters to the point of beginning.

TRACT 4:

Beginning at a point on the Northeasterly right of way line of State Highway No. 97 which lies South 0° 06' West along the East section line a distance of 688.5 feet and North 89° 49' West along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and North 38° 52' West along the Northeasterly right of way line of State Highway No. 97 (Note: State Highway bearing of this line shows North 39° 7 1/2' West) a distance of 130.55 feet from the iron axle which marks the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, running thence; continuing North 38° 52' West along the Northeasterly right of way line of State Highway No. 97, a distance of 250 feet to a point; thence North 51° 08' East a distance of 192.77 feet to a point; thence South 38° 52' East a distance of 250 feet to a point; thence South 51° 08' West a distance of 192.77 feet, more or less to the point of beginning, in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

TOGETHER WITH an easement for ingress and egress as granted by instrument recorded September 26, 1986 in Volume M86, page 17486, Microfilm Records of Klamath County, Oregon.

AFFIDAVIT OF MAILING NOTICE OF INTENT
TO REMOVE TENANTS FOLLOWING FORECLOSURE
RE: TRUSTEE'S NOTICE OF SALE ON TRUST DEED
RECORDED AT M03 - PAGE 2790

STATE OF OREGON)

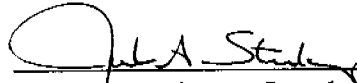
) ss.

County of Klamath)

I, Julie A. Stenkamp, being first duly sworn, depose and say:

1. I am a legal assistant in the firm of Boivin, Uerlings & Dilaconi, P.C., and make this affidavit of my own personal knowledge.


2. On March 10, 2011, I prepared and caused to be mailed the attached Notice of Intent to Remove Tenants from property then being foreclosed pursuant to ORS 86.705 *et. seq.* The Notice was mailed on the date shown thereon by first class mail to the address(es).



Julie A. Stenkamp, Legal Assistant
Boivin, Uerlings & Dilaconi, P.C.

SIGNED AND SWORN to before me this 10th day of March, 2011 by Julie A. Stenkamp.





Notary Public for the State of Oregon
My Commission Expires: 5-16-12

BOIVIN, UERLINGS & DIACONI, P. C.

ATTORNEYS AT LAW
803 MAIN STREET, SUITE 201
KLAMATH FALLS, OREGON 97601-6070
TELEPHONE: (541) 884-8101
FAX: (541) 884-8498

JAMES R. UERLINGS
BARBARA M. DIACONI

March 10, 2011

FOUNDED IN 1915
HARRY D. BOIVIN
(1904-1999)
ROBERT D. BOIVIN
(1937-1999)

Kathleen S. Scott
Mollies Restaurant & Lounge Again, LLC
3817 Hwy 97N
Klamath Falls, OR 97601

Re: Notice of Intent to Remove Tenants Following Foreclosure
South Valley Bank & Trust / Ernst Brothers, LLC

Dear Tenant:

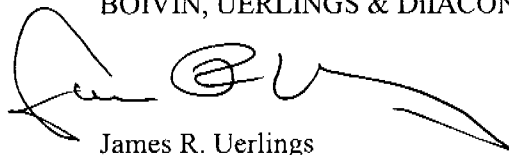
South Valley Bank & Trust has initiated foreclosure of a trust deed against the property on which you are now a tenant. You were served with a copy of the Trustee's Notice of Sale on or about December 2, 2010.

This letter is notice to you pursuant to ORS 86.755(5) that the party who purchases the property at the trustee's sale, now set to occur on April 6, 2011, intends to remove you from possession of the property under the procedures set in ORS 105.105 to 105.168 no earlier than ten days after that date, or the date the sale actually occurs, if later.

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

If you have any questions regarding this notice, you should consult with legal counsel.

Very truly yours,
BOIVIN, UERLINGS & DIACONI, P.C.



James R. Uerlings

JRU/jas

cc: South Valley Bank & Trust

BOIVIN, UERLINGS & DIACONI, P. C.

ATTORNEYS AT LAW
803 MAIN STREET, SUITE 201
KLAMATH FALLS, OREGON 97601-6070
TELEPHONE: (541) 884-8101
FAX: (541) 884-8498

JAMES R. UERLINGS
BARBARA M. DIACONI

March 10, 2011

FOUNDED IN 1915
HARRY D. BOIVIN
(1904-1999)
ROBERT D. BOIVIN
(1937-1999)

Stephen J. Suty
Suty Fuel & General Store, Inc.
3817 Hwy 97N
Klamath Falls, OR 97601

Re: Notice of Intent to Remove Tenants Following Foreclosure
South Valley Bank & Trust / Ernst Brothers, LLC

Dear Tenant:

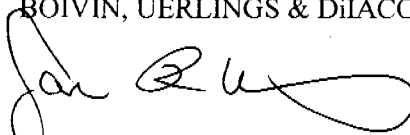
South Valley Bank & Trust has initiated foreclosure of a trust deed against the property on which you are now a tenant. You were served with a copy of the Trustee's Notice of Sale on or about December 2, 2010.

This letter is notice to you pursuant to ORS 86.755(5) that the party who purchases the property at the trustee's sale, now set to occur on April 6, 2011, intends to remove you from possession of the property under the procedures set in ORS 105.105 to 105.168 no earlier than ten days after that date, or the date the sale actually occurs, if later.

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

If you have any questions regarding this notice, you should consult with legal counsel.

Very truly yours,
BOIVIN, UERLINGS & DIACONI, P.C.



James R. Uerlings

JRU/jas

cc: South Valley Bank & Trust

BOIVIN, UERLINGS & DIACONI, P. C.

ATTORNEYS AT LAW
803 MAIN STREET, SUITE 201
KLAMATH FALLS, OREGON 97601-6070
TELEPHONE: (541) 884-8101
FAX: (541) 884-8498

JAMES R. UERLINGS
BARBARA M. DIACONI

March 10, 2011

FOUNDED IN 1915
HARRY D. BOIVIN
(1904-1999)
ROBERT D. BOIVIN
(1937-1999)

Stephen J. Suty
Suty Fuel & General Store, Inc.
2360 South 6th Street
Klamath Falls, OR 97603

Re: Notice of Intent to Remove Tenants Following Foreclosure
South Valley Bank & Trust / Ernst Brothers, LLC

Dear Tenant:

South Valley Bank & Trust has initiated foreclosure of a trust deed against the property on which you are now a tenant. You were served with a copy of the Trustee's Notice of Sale on or about December 2, 2010.

This letter is notice to you pursuant to ORS 86.755(5) that the party who purchases the property at the trustee's sale, now set to occur on April 6, 2011, intends to remove you from possession of the property under the procedures set in ORS 105.105 to 105.168 no earlier than ten days after that date, or the date the sale actually occurs, if later.

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

If you have any questions regarding this notice, you should consult with legal counsel.

Very truly yours,
BOIVIN, UERLINGS & DIACONI, P.C.



James R. Uerlings

JRU/jas

cc: South Valley Bank & Trust

EC

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



**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

Ernst Brothers, LLCPO Box 637Gilchrist, OR 97737

To

Grantor

South Valley Bank & Trust803 Main StreetKlamath Falls, OR 97601

Trustee

After recording, return to (Name, Address, Zip):

James R. Uerlings803 Main Street, Ste 201Klamath Falls, OR 97601

STATE OF OREGON,

County of _____ } ss.

I certify that the within instrument was
received for record on _____,
at _____ o'clock _____ M., and recorded in
book/reel/volume No. _____ on page _____
and/or as fee/file/instrument/microfilm/reception
No. _____, Records of said County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy.

SPACE RESERVED
FOR
RECORDER'S USE

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

STATE OF OREGON,

County of Klamath } ss.

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

I am the Trustee or attorney for the 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

7 D(2) and 7 D(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 are as follows:

Name of person to be served
(If unknown, so state)

Property Address

Kathleen S. Scott

Mollies Restaurant & Lounge Again, LLC
3817 Hwy 97 N
Klamath Falls, OR 97601

Stephen Suty

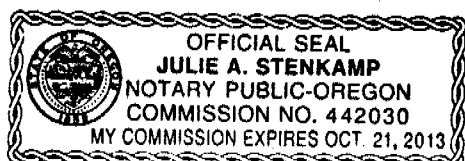
Suty Fuel & General Store, Inc.
2360 S 6th Street
Klamath Falls, OR 97601

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 6, 2010, 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.

(ATTORNEY FOR) TRUSTEE

SIGNED AND SWORN TO before me on March 28, 2011

Notary Public for Oregon

My commission expires 10/21/2013

PROOF OF SERVICE



STATE OF Oregon, County of Klamath ss.

I hereby certify and swear that at all times herein mentioned I was and now am a competent person 18 years of age or older and a resident of the state where in the service hereinafter set forth was made, and that I am not the beneficiary or trustee named in the original trustee's Notice of Sale attached hereto, nor a successor to either, nor an officer, director, employee of, or attorney for, the beneficiary or trustee, or successor of either, corporate or otherwise.

I made service of the attached original Trustee's Notice of Sale upon the individuals and other legal entities named below by delivering true copies of the Notice of Sale, certified to be such by the attorney for the trustee or successor trustee, as follows:

Personal Service Upon Individual(s)

Upon Kathleen Scott, by delivering such true copy to Kathleen Scott, personally and in person, at 3817 Hwy 97N, Klamath Falls, OR 97601, on December 2, 2010, at 11:30 o'clock A.M.

Upon _____, by delivering such true copy to _____, personally and in person, at _____, on _____, at _____ o'clock _____M.

Substituted Service Upon Individual(s)

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, who is a person 14 years of age or older and a member of the household of the person served on _____, at _____ o'clock _____M.

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, who is a person 14 years of age or older and a member of the household of the person served on _____, at _____ o'clock _____M.

Office Service Upon Individual(s)

Upon Stephen Suty, Registered Agent for Suty Fuel, et al, at the office which he/she maintains for the conduct of business at 2360 S 6th Street, Klamath Falls, OR 97601, by leaving such true copy with Angela Suty, Corporate Secretary, the person who is apparently in charge, on December 2, 2010, during normal working hours, at 8:29 o'clock, A.M.

Service on Corporations, Limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by _____, (NAME OF CORPORATION, LIMITED PARTNERSHIP, ETC.)

(a) delivering such true copy, personally and in person, to _____, who is a/the _____ (Specify registered agent, officer (by title), director, general partner, managing agent, etc.) thereof; OR

(b) leaving such true copy with _____, the person who is apparently in charge of the office of _____, who is a/the _____ (Specify registered agent, officer (by title), director, general partner, managing agent, etc.) thereof;

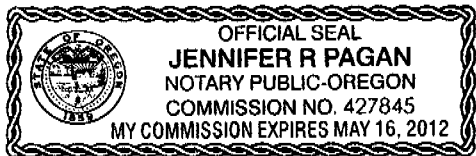
at _____, on _____, at _____ o'clock _____M.

EACH OF THE PERSONS, FIRMS AND CORPORATIONS SERVED BY ME IS THE IDENTICAL PERSON, FIRM OR CORPORATION NAMED IN THE TRUSTEE'S INSTRUCTIONS TO ME IN CONNECTION HERewith.

Meg Rose

SIGNED AND SWORN TO before me on

March 28, 2011



Notary Public for Oregon

My commission expires

5-16-12

PUBLISHER'S NOTE: ORS 86.750 (1) requires the Notice of Sale to be served upon the occupant in the manner in which a summons is served pursuant to ORCP 7 D(2) and 7 D(3). The Proof of Service above contains **most, but not all**, of the permissible methods of service. For example, this form does not include proof of service upon a minor, an incapacitated person, or tenant(s) of a mail agent. See ORCP 7 D(2) and 7 D(3) for permissible service methods with respect to particular parties. Also, an attorney who serves the Notice of Sale by mail, in accordance with law, should delete "or attorney for," from the first paragraph above before this document is recorded.