

NOT 90417

2012-004269

Klamath County, Oregon



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04/24/2012 03:21:15 PM

Fee: \$97.00

RECORDING COVER SHEET

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

AFTER RECORDING RETURN TO:

Shapiro & Sutherland, LLC

1499 SE Tech Center Place

Suite 255

Vancouver, WA 98683

S&S File No. 11-106530

1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)

Trustee's Affidavit of Compliance with ORS 86.737
Affidavit of Compliance with ORS 86.737

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160

Smith, Maurice M. & Mary K.
3009 Barnes Way, Klamath Falls, OR 97603

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160

EverBank
8100 Nations Way
Jacksonville, Florida 32256

Kelly D. Sutherland, Successor Trustee
1499 SE Tech Center Place, Suite 255
Vancouver, WA 98683

4) TRUE AND ACTUAL CONSIDERATION | 5) SEND TAX STATEMENTS TO:

ORS 93.030(5) – Amount in dollars or other

\$ _____ Other _____

6) SATISFACTION of ORDER or WARRANT | 7) The amount of the monetary

ORS 205.125(1)(e)

CHECK ONE: FULL

(If applicable) PARTIAL

| obligation imposed by the order
| or warrant. ORS 205.125(1)(c)

| \$ _____

8) If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF _____ TO CORRECT _____ PREVIOUSLY RECORDED IN BOOK _____ AND PAGE _____, OR AS FEE NUMBER _____."

97Aue

AFTER RECORDING RETURN TO:
Shapiro & Sutherland, LLC
1499 SE Tech Center Place, Suite 255
Vancouver, WA 98683
11-106530

**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 Maurice M. Smith and Mary K. Smith as grantor to First American Title as trustee, in which Mortgage Electronic Registration Systems, Inc., as nominee for Gateway Business Bank, dba Mission Hills Mortgage Bankers is beneficiary, recorded on July 6, 2005, in the mortgage records of Klamath County, Oregon in Book No. Vol. M05, at Page 51620, covering the following described real property situated in said county:

Lot 17, Tract 1300, Klamath Meadows East, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Commonly known as: 3009 Barnes Way, Klamath Falls, OR 97603

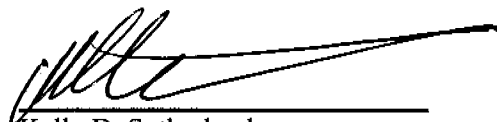
I hereby certify that on December 27, 2011, the notice required by ORS 86.737 ("Notice") was furnished by mailing a copy of the notice by registered or certified mail, return receipt requested, and first class mail to each of the following named persons:

Maurice M. Smith	Mary K. Smith	Occupant(s)
3009 Barnes Way	3009 Barnes Way	3009 Barnes Way
Klamath Falls, OR 97603	Klamath Falls, OR 97603	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 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.



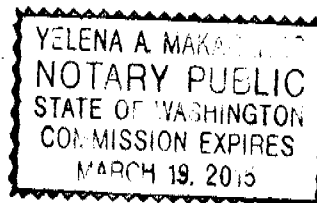
Kelly D. Sutherland

State of Washington)
)
County of Clark)

On this 23rd day of April, in the year 2012, 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

Yelena A. Makarenko
Notary Public
My Commission Expires 3/19/2015



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 3009 Barnes Way, 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, December 23, 2011 is \$19,186.48.

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
1499 SE Tech Center Place, Suite 255
Vancouver, WA 98683
Our File #: 11-106530

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

May 2, 2012, 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 EverBank at 800-669-7724 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 800-669-7724. 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 JANUARY 26, 2012, 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 23, 2011

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature:

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

LOAN MODIFICATION REQUEST FORM

Maurice M. Smith
3009 Barnes Way
Klamath Falls, OR 97603

Mary K. Smith
3009 Barnes Way
Klamath Falls, OR 97603

RE: Loan#: XXXXXX0325
 Property Address: 3009 Barnes Way, 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 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 January 26, 2012 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 a letter requesting assistance and explaining the circumstances of the financial hardship that makes it difficult for you to pay your mortgage loan.
- Submit the required documentation of your income.

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 January 26, 2012. If you have any questions, please contact mortgage servicer at (800) 669-7724.

Act Now!

To see if you qualify for this program, send the items listed below to Mortgage Servicer no later than January 26, 2012 to the address provided below:

Shapiro & Sutherland, LLC
1499 SE Tech Center Place, Suite 255
Vancouver, WA 98683

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:

The most recent two paystubs for all account holders, or
 If self-employed, copies of your profit and loss statements, ledgers and receipts, or
 If you're not currently employed, your social security/unemployment benefit letters or denial letter, or
 If you're disabled, your disability benefits letters denial letter, or
 If you're retired, a pension or retirement letter
 Most recent Tax Return
 Last two Bank Statements
 Information about Assets
 Evidence of any "junior" second or more liens

Additional Information on your expenses:

Medical bills (if applicable)
 Childcare (if applicable)
 Copy of court order for child support and/or alimony (if applicable)

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) 669-7724.

You must send in all required documentation by no later than January 26, 2012.

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: December 23, 2011

Kelly D. Sutherland, Shapiro & Sutherland, LLC

Trustee signature:

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

AFTER RECORDING RETURN TO:

Shapiro & Sutherland, LLC
1499 SE Tech Center Place, Suite 255
Vancouver, WA 98683
11-106530

Affidavit of Compliance with Oregon ORS 86.737

County Clerk Recording Info: m05-51620

Grantor (name): Maurice M. Smith and Mary K. Smith

Trustee (name): First American Title

Original Beneficiary (name): Mortgage Electronic Registration Systems, Inc., as nominee for Gateway Business Bank, dba Mission Hills Mortgage Bankers

Assignee(s), if any (name(s)): EverBank

Original Loan Amount: \$161,000.00

Borrower name(s): Smith, Maurice M. & Mary K.

Property Address: 3009 Barnes Way, 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 and, except as noted below, having personal knowledge of the matters set forth below, 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.** Based on information and belief, the borrower failed to return the required Loan Modification Request Form sent by the Trustee to the address required on the form within 30 days of the date the Trustee signed the Notice required by ORS 86.737 ("Law:")

☐ **Meeting Requested But Borrower Unavailable to Schedule Meeting.** Borrower requested a meeting within 30 days of the date the Trustee signed the notice required by "Law" and sent the required Loan Modification Request Form to beneficiary or its agent. The beneficiary or beneficiary's authorized agent attempted to contact the borrower by the methods contemplated by "Law" within the statutory time period 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 within 30 days of the date the trustee signed the notice required by Law and sent the required Loan Modification Request Form to beneficiary or its agent. The beneficiary or beneficiary's authorized agent contacted Borrower by the methods allowed by 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. Borrower Deemed Ineligible. Request Denied.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary. The loan modification request was evaluated in good faith within required statutory time period. 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 statutory time period of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower is ineligible for a loan modification.
- [] **Loan Modification Requested. After Evaluation, Request Denied.** Borrower requested a loan modification within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within the required statutory time period. Within the required statutory time period, the beneficiary's receipt of borrower's Loan Modification Request Form, 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 within 30 days of the date the trustee signed the notice required by Law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within the required statutory time period. Within the required statutory time period of the beneficiary's receipt of borrower's Loan Modification Request Form, 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 within 30 days of the date the trustee signed the notice required by law and sent the Loan Modification Request Form to beneficiary or its agent. The loan modification request was evaluated in good faith within the required statutory time period, 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 45 days of the beneficiary's receipt of borrower's Loan Modification Request Form, the beneficiary or beneficiary's authorized agent notified borrower that borrower's request for a loan modification was denied.
- [] Other (Specify):
-
-

If the borrower's loan modification request was denied after May 27, 2010, the beneficiary or beneficiary's agent provided the grantor with the information described in subsection (1)(b) of (c) of Section 3, Chapter 864, Oregon Laws 2009.

DATED:

4/12/12

By:

[Signature]

Typed Name:

Michael Wood

Title:

Assistant Vice President

State of

FL

County of

Duval

) ss.

This instrument was acknowledged before me on

Veronica Mestre

by

Michael Wood

as

Assistant Vice President

of

EverBank

Veronica Mestre

[Signature]

Notary signature

My commission expires

7/21/2012

