

2015-001179

Klamath County, Oregon



00164922201500011790050050

02/10/2015 11:35:39 AM

Fee: \$72.00

After recording return to:

Alan N. Stewart
Hurley Re, PC
747 SW Mill View Way
Bend, OR 97702

**NOTICE OF DEFAULT AND ELECTION TO SELL
BENEFICIARY EXEMPTION AFFIDAVIT**

BENEFICIARY IS EXEMPT FROM THE MEDIATION REQUIRED BY OREGON LAWS 2012, CHAPTER 112, §2(2)(d). BENEFICIARY HAS FILED A BENEFICIARY EXEMPTION AFFIDAVIT WITH THE OREGON ATTORNEY GENERAL. THE BENEFICIARY EXEMPTION AFFIDAVIT IS ATTACHED TO THIS NOTICE OF DEFAULT AND ELECTION TO SELL FOR RECORDING.

Reference is made to that certain Deed of Trust made by **Gregory Louis Philpott**, as Grantor, to **Rural Housing Service or its successor agency**, as Trustee, in favor of **United States of America acting through the Rural Housing Service or successor agency, United States Department of Agriculture**, as Beneficiary, dated October 9, 2003, recorded October 9, 2003, as Instrument No. M03, page 75450, Microfilm Records of Klamath County, Oregon, and re-recorded October 16, 2003, as Instrument No. M03, page 77244, Microfilm Records of Klamath County, Oregon, covering the following described real property situated in Klamath County, Oregon, to-wit:

Unit 10737 (Kincheloe Avenue), TRACT 1365, FALCON HEIGHTS CONDOMINIUMS STAGE 2, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Commonly referred to as 10737 Kincheloe Avenue, Klamath Falls OR 97603.

Alan N. Stewart of Hurley Re, P.C., 747 SW Mill View Way, Bend, OR 97702, was appointed Successor Trustee by the Beneficiary on January 15, 2015.

The undersigned hereby certifies that no assignments of the Deed of Trust by the Trustee or by the Beneficiary and no appointments of a Successor Trustee have been made except as recorded in the Mortgage Records of the County or Counties in which the above-described real property is situated, further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the Deed of Trust, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 86.735(4).

There is a default by the Grantor or other person owing an obligation, the performance of which is secured by the Deed of Trust, or by the successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision; the default for which foreclosure is made is Grantor's failure to pay when due the following sums:

Also, as of January 15, 2015, pursuant to the Promissory Note dated October 9, 2003, the amount of \$14,577.87, plus late charges in the amount of \$331.96, plus fees due in the amount of \$123.96, for a total delinquency of \$15,033.79.

By reason of the default, the Beneficiary has declared all sums owing on the obligation secured by the Deed of Trust immediately due and payable, those sums being the following, to-wit:

As of January 15, 2015, unpaid principal in the amount of \$83,957.32, accrued interest in

the amount of \$10,951.20, subsidy recapture in the amount of \$22,114.44, assessed fees in the amount of \$2,883.89, and interest on fees in the amount of \$89.98, for a total amount of \$119,996.83, plus interest continuing to accrue at the rate of \$13.2262 per day, including daily interest on fees at the rate of \$0.4543, until paid, plus any unpaid property taxes, attorney's fees, foreclosure costs, and sums advanced by the beneficiary pursuant to the terms of said Deed of Trust.

Notice is hereby given that the Beneficiary and Trustee, by reason of the default, have elected and do hereby elect to foreclose the Deed of Trust by advertisement and sale pursuant to ORS 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the described property which the Grantor has, or had the power to convey, at the time of the execution by Grantor of the Deed of Trust, together with any interest the Grantor or Grantor's successor in interest acquired after the execution of the Deed of Trust, to satisfy the obligations secured by the Deed of Trust and the expenses of the sale, including the compensations of the Trustee as provided by Law, and the reasonable fees of Trustee's attorneys.

The sale will be held at the hour of 11:00 o'clock, A.M., in accord with the standard of time established by ORS 187.110 on June 30, 2015, at the following place: on the front steps of the Klamath County Courthouse, 316 Main Street, in the City of Klamath Falls, County of Klamath, State of Oregon, which is the hour, date and place last set for the sale.

Other than as shown of record, neither the Beneficiary nor the Trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the Trustee in the Deed of Trust, or of any successor in interest to the Grantor or of any lessee or other person in possession of or occupying the property, except:

<u>NAME AND LAST KNOWN ADDRESS</u>	<u>NATURE OF RIGHT, LIEN OR INTEREST</u>
Gregory Louis Philpott 10737 Kincheloe Avenue Klamath Falls OR 97603	Grantor
Gregory Louis Philpott PO Box 3397 Central Point, OR 97502	Grantor
Mortgage Electronic Registration Systems, Inc. ("MERS"), solely as nominee for GMAC Mortgage Corporation dba ditech.com c/o The Prentice-Hall Corporation System, Inc. 2711 Centerville Road, Suite 400 Wilmington, DE 19808	Trust Deed recorded September 18, 2006, Instrument No. 2006-018661, Records of Klamath County, OR
GMAC Mortgage Corporation dba ditech.com 3200 Park Center Dr., Ste. 150 Costa Mesa, CA 92626	Trust Deed recorded September 18, 2006, Instrument No. 2006-018661, Records of Klamath County, OR
Portfolio Recovery Associates c/o Johnson Mark LLC 901 N. Brutscher Street, D PMB 401 Newberg, OR 97132	Judgment in the Circuit Court, Klamath County, Oregon, Case No. 1201515CV

Portfolio Recovery Associates
c/o Corporation Service Company,
Registered Agent
285 Liberty Street NE
Salem, OR 97301

Judgment in the Circuit Court, Klamath County,
Oregon, Case No. 1201515CV

Portfolio Recovery Associates
120 Corporate Blvd., Ste. 100
Norfolk VA 23502

Judgment in the Circuit Court, Klamath County,
Oregon, Case No. 1201515CV

Falcon Heights Condominium
Association, Inc.
PO Box 127
Klamath Falls, OR 97601-0077

Claim of Lien, recorded 12-17-13, Instrument
No. 2013-013804, Records of Klamath
County, OR; and
Judgment in Circuit Court of Klamath County
Oregon, Case No. 1400037CV

Falcon Heights Condominium
Association, Inc.
c/o Barbara M. Dilaconi
Boivin, Uerlings & Dilaconi, PC
803 Main Street, Suite 201
Klamath Falls, OR 97601-6070

Claim of Lien, recorded 12-17-13, Instrument
No. 2013-013804, Records of Klamath
County, OR; and
Judgment in Circuit Court of Klamath County
Oregon, Case No. 1400037CV

Falcon Heights Condominium
Association, Inc.
c/o Louellyn Kelly, Registered Agent
2115 Orchard Avenue
Klamath Falls, OR 97601

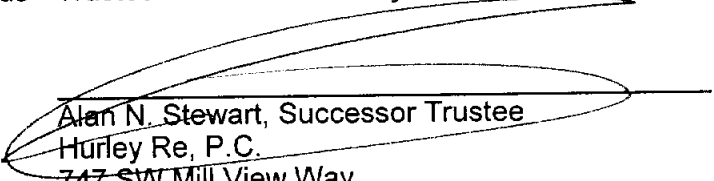
Claim of Lien, recorded 12-17-13, Instrument
No. 2013-013804, Records of Klamath
County, OR; and
Judgment in Circuit Court of Klamath County
Oregon, Case No. 1400037CV

Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five (5) days before the date last set for the sale, to have this foreclosure proceeding dismissed and the Deed of Trust 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 Deed of Trust, and in addition to paying the sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and Deed of Trust, together with Trustee's and attorney's fees not exceeding the amounts provided by ORS 86.753.

In accordance with the Fair Debt Collection Practices Act, this is an attempt to collect a debt, and any information obtained will be used for that purpose. This communication is from a debt collector.

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 Deed of Trust, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

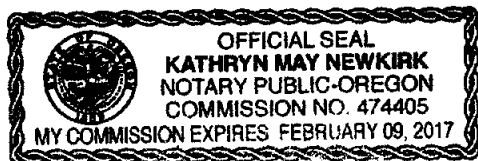
DATED January 21, 2015.


Alan N. Stewart, Successor Trustee
Hurley Re, P.C.
747 SW Mill View Way
Bend, OR 97702
Telephone: 541-317-5505

STATE OF OREGON)
) ss.
County of Deschutes)

This instrument was acknowledged before me on the 29th day January, 2015, by Alan N. Stewart,
as Successor Trustee.

Kathryn M. Newkirk
Notary Public for Oregon



After recording, return to:

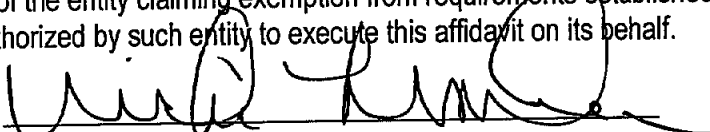
**OREGON FORECLOSURE AVOIDANCE PROGRAM
BENEFICIARY EXEMPTION AFFIDAVIT**

Lender/Beneficiary:	United States of America, acting through the State Director for the State of Oregon for USDA Rural Housing Service
Jurisdiction*	State of Oregon

*If Lender/Beneficiary is not a natural person, provide the state or other jurisdiction in which the Lender/Beneficiary is organized.

I, Vicki L. Walker, State Director (printed name) being first duly sworn, depose, and state that: This affidavit is submitted for a claim of exemption to the Office of the Attorney General of Oregon under Oregon Laws 2013, chapter 304, §2(1)(b).

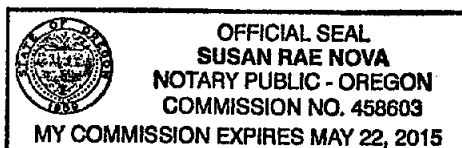
1. The above named individual or entity commenced or caused an affiliate or agent of the individual or entity to commence the following number of actions to foreclose a residential trust deed by advertisement and sale under ORS 86.735 or by suit under ORS 88.010 during the calendar year preceding the date of this affidavit: 36 [not to exceed 175];
2. The undersigned further certifies that she/he: [check only one of the following boxes]
☐ is the individual claiming exemption from requirements established under Or Laws 2013, ch 304, or
☒ is the State Director [insert title] of the entity claiming exemption from requirements established under Or Laws 2013, ch 304, and is authorized by such entity to execute this affidavit on its behalf.

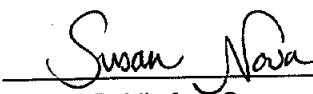

(Signature)

State of Oregon)
) ss.

County of Multnomah)

Signed and sworn to (or affirmed) before me this 15th day of January, 2015
by Vicki L. Walker, as State Director for the State of Oregon for USDA Rural Housing Service.




Notary Public for Oregon
My commission expires: May 22, 2015