

2015-008799

Klamath County, Oregon



00174201201500087990100102

08/07/2015 09:41:44 AM

Fee: \$87.00

EO

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED

**INSTRUCTIONS FOR SERVICE OF TRUSTEE'S  
NOTICE OF SALE UPON OCCUPANT PURSUANT  
TO ORS 86.774(1) AND PROOF OF SERVICE  
(120 DAY SALE)**

RE: Trust Deed from  
Daniel S. Miller

PO Box 139

Chemult, OR 97731

To

Grantor

AmeriTitle

Trustee

After recording, return to (Name, Address, Zip)  
**PATRICK J. KELLY**  
**ATTORNEY AT LAW**  
**717 N.W. 5th STREET**  
**GRANTS PASS, OR 97526**

SPACE RESERVED  
FOR  
RECORDER'S USE

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.

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 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. If you are unable to do so, effect service by  
 posting and mailing in the manner provided by ORS 86.774(1)(b).

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

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

Property Address

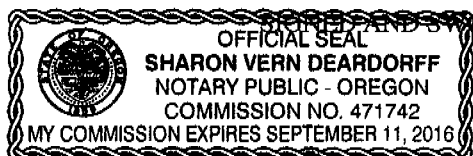
Occupants

109718 Hwy 97 North  
Chemult, OR 97731

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 or completed by April 8, 2015, which is 120 days before the date  
 fixed for the sale in the attached notice. If you have not made or completed service by that date, persist in doing so 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.



PATRICK KELLY ATTORNEY (TRUSTEE)

August 6, 2015

by Patrick Kelly

Notary Public for Oregon

My commission expires 9-11-2016

**AFFIDAVIT OF SERVICE**  
**TRUSTEE'S NOTICE OF SALE**

Grantor:  
**DANIEL S. MILLER**

vs.

Trustee:  
**AMERITITLE**

For:  
Patrick J. Kelly  
717 NW Fifth St.  
Grants Pass, OR 97526

Received by 3 Rivers Process LLC on the 14th day of March, 2015 at 9:04 am to be served on **Occupant, 109718 N. Highway 97, Chemult, OR 97731.**

I, Michael J. Long, being duly sworn, depose and say that on the **16th day of March, 2015 at 3:00 pm, I:**

**COMPLETED SERVICE** pursuant to *ORS 86.750* of **TRUSTEE'S NOTICE OF SALE**

Being unable to personally serve an occupant on March 16, 2015 at 3:00 PM I did **POST** the above mentioned papers in a conspicuous place on the property.

I subsequently returned at least two days later on March 20, 2015 at 10:00 AM and again was unable to make personal service upon an occupant and so did a **SECOND POSTING.**

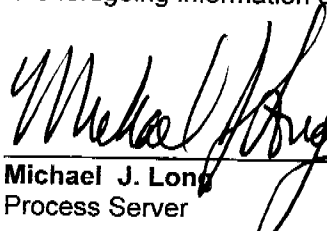
A **THIRD and FINAL POSTING** was completed on March 24, 2015 at 2:47 PM at least two days after the second attempt and after once again being unable to personally serve an occupant.

On March 24, 2015, a **MAILING** bearing the word "occupant" as the addressee was sent to the property address by first class mail with postage prepaid.

I further certify that I am a competent person over the age of 18 and a resident 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, corporate or otherwise: that the person served by me is the identical person named in the action. I also declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Return of Service including service fees is true and correct.

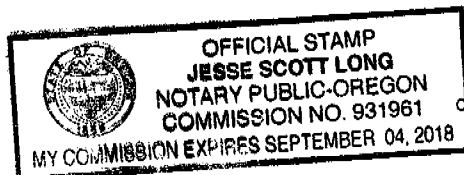
Subscribed and Sworn to before me on the 24th day of March, 2015 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
\_\_\_\_\_  
Michael J. Long  
Process Server

**3 Rivers Process LLC  
PO Box 1717  
Grants Pass, OR 97528  
(541) 955-1717**

Our Job Serial Number: CML-2015000019  
Ref: 2015000660



## TRUSTEE'S NOTICE OF SALE

Reference is made to that certain trust deed made by **Daniel S. Miller**, as Grantor, to **AmeriTitle, an Oregon Corporation**, as Trustee, in favor of **Owen W. MacPhee and Neva K. MacPhee, Trustees of the Owen MacPhee Family Trust**, as Beneficiary, dated **April 6, 2012**, recorded on **April 18, 2012**, in the Official Records of **Klamath County, Oregon**, in, as **Document #2012-004047** covering the following described real property situated in that county and state, to-wit:

### SEE EXHIBIT "A"

Said real property is commonly known as: **109716, 109718, and 109370 Hwy 97 North, Chemult, Oregon.**

**PATRICK J. KELLY**, Attorney at Law, OSB #79-2882, is now the successor trustee. His office is located at 717 NW Fifth St., Grants Pass, OR 97526. His telephone number is (541) 474-1908.

The beneficiary's interest in said trust deed was assigned to: **None**

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 86.752(3); the default for which the foreclosure is made in grantor's failure to pay when due the following sums:

**The April 16, 2014 monthly installment in the amount of \$720.00 and each month thereafter, plus buyer's fees of \$105.00, plus late charges of \$360.00.**

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:

**The unpaid principal balance in the amount of \$55,517.21 with interest thereon at 12% per annum from June 6, 2014 until paid, plus late charges of \$360.00.**

WHEREFORE, notice is hereby given that on **August 7, 2015**, at the hour of **11:00 o'clock, am**, in accord with the standard of time established by ORS 187.110, at **the front steps of the Klamath County Courthouse, 316 Main Street**, in the City of **Klamath Falls**, County of **Klamath** 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 86.778 that the right exists under ORS 86.778 to have the 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.

Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale.

### **NOTICE TO RESIDENTIAL TENANTS:**

The property in which you are living is in foreclosure. A foreclosure sale is scheduled for AUGUST 7, 2015. The date of this sale may be postponed. Unless the lender that is foreclosing on this property is paid before the sale date, the foreclosure will go through and someone new will own this property. After the sale, the new owner is required to provide you with contact information and notice that the sale took place. The following information applies to you only if you are a bona fide tenant occupying and renting 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 bona fide residential tenant. If the foreclosure sale goes through, the new owner will have the right to require you to move out. Before the new owner can require you to move, the new owner must provide you with written notice that specifies the date by which you must move out. If you do not leave before the move-out date, the new owner can have the sheriff remove you from the property after a court hearing. You will receive notice of the court hearing.

### **PROTECTION FROM EVICTION**

**IF YOU ARE A BONA FIDE TENANT OCCUPYING AND RENTING THIS PROPERTY AS A RESIDENTIAL DWELLING, YOU HAVE THE RIGHT TO CONTINUE LIVING IN THIS PROPERTY AFTER THE FORECLOSURE SALE FOR:**

- **60 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A FIXED TERM LEASE; OR**
- **AT LEAST 30 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A MONTH-TO-MONTH OR WEEK - TO WEEK RENTAL AGREEMENT.**

If the new owner wants to move in and use this property as a primary residence, the new owner can give you written notice and require you to move out after 30 days, even though you have a fixed term lease with more than 30 days left. You must be provided with at least 30 days' written notice after the foreclosure sale before you can be required to move. A bona fide tenant is a residential tenant who is not the borrower (property owner) or a child, spouse or parent of the borrower, and whose rental agreement:

- **Is the result of an arm's-length transaction;**
- **Requires the payment of rent that is not substantially less than fair market rent for the property , unless the rent is reduced or subsidized due to a federal, state or local subsidy; and**
- **Was entered into prior to the date of the foreclosure sale.**

**ABOUT YOUR TENANCY BETWEEN NOW AND  
THE FORECLOSURE SALE;**

**RENT:**

**YOU SHOULD CONTINUE TO PAY RENT TO YOUR LANDLORD UNTIL THE PROPERTY IS SOLD OR UNTIL A COURT TELLS YOU OTHERWISE. IF YOU DO NOT PAY RENT, YOU CAN BE EVICTED. BE SURE TO KEEP PROOF OF ANY PAYMENTS YOU MAKE.**

**SECURITY DEPOSIT:**

**You may apply your security deposit and any rent you paid in advance against the current rent you owe your landlord as provided in ORS 90.367. 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 new owner that 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 after 30 or 60 days. After the sale, you should receive a written notice informing you that the sale took place and giving you the new owner's name and contact information. You should contact the new owner if you would like to stay. If the new owner 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 new owner becomes your new landlord and must maintain the property, OTHERWISE:**

- **You do not owe rent;**
- **The new owner is not your landlord and is not responsible for maintaining the property on your behalf; and**
- **You must move out by the date the new owner specifies in a notice to you.**

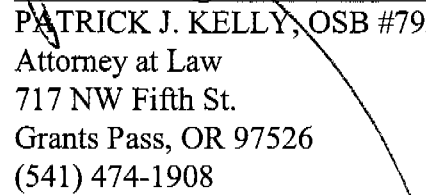
**The new owner may offer to pay your moving expenses and any other costs or amounts you and the new owner agree on in exchange for your agreement to leave the premises in 30 or 60 days. You should speak with a lawyer to fully understand your rights before making any decisions regarding your tenancy.**

**IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR DWELLING UNIT WITHOUT FIRST GIVING YOU WRITTEN NOTICE AND GOING TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS, YOU SHOULD CONSULT A LAWYER. If you believe you need legal assistance, 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 do not have enough money to pay a lawyer and are otherwise eligible, you may be able to receive legal assistance for free. Information about whom to contact for free legal assistance is included with this notice.**

## FAIR DEBT COLLECTION PRACTICES ACT 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: March 3, 2015



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PATRICK J. KELLY, OSB #792882  
Attorney at Law  
717 NW Fifth St.  
Grants Pass, OR 97526  
(541) 474-1908

State of Oregon, County of Josephine ) ss.

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.



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PATRICK J. KELLY Attorney for Trustee

## EXHIBIT "A"

All of Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 5, NORTH CHEMULT, in the County of Klamath, State of Oregon;

ALSO: All that portion of Lot 9, Block 5, NORTH CHEMULT, vacated Chemult Road, and Lot 7, Block 4 of Chemult, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point on the Easterly line of said Lot 9, which is 480 feet South of the most Northerly corner of Lot 1 of said Block 5; thence Southwesterly parallel with the Northerly line of said Lot 9 to a point on the Westerly line of said Lot 7, Block 4; thence Northwesterly along the Westerly line of said Lot 7 to a point on the South line of vacated Chemult Road; thence Westerly along the South line of vacated Chemult Road to a point on the West line of Section 21, Township 27 South, Range 8 East of the Willamette Meridian; thence North along said section line to the Northwest corner of said Lot 9, Block 5; thence Northeasterly along the Northerly line of said Lot 9 to the Northeast corner thereof; thence Southeasterly along the Easterly line of said Lot 9 to the point of beginning.

LESS AND EXCEPT that portion conveyed to the State of Oregon, by and through its Department of Transportation as recorded February 22, 2001 in M01, page 7134 and M01, page 7139.

**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:**

Street address: 109716, 109718, and 109370 Hwy 97 North  
City: State: ZIP: Chemult, Oregon 97731

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 April 16, 2014 to bring your mortgage loan current was \$720.00. 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:(541) 474-1908 to find out the exact amount you must pay to bring your to 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:

PATRICK J. KELLY, ATTORNEY  
717 NW 5<sup>TH</sup> STREET  
Grants Pass, OR 97526

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

Date and time: August 7, 2015, at 11:00 am

Place: 316 Main Street, Klamath Falls, 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 call Patrick Kelly, Attorney at (541) 474-1908 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 phone number of an organization near you, please call the statewide phone contact number at **1-855-480-1950**. 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 **800-452-7636** or you may visit its Web site at: **[www.osbar.org](http://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>**.

**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: March 4, 2015

Trustee name (print): Patrick J. Kelly

Trustee signature: \_\_\_\_\_

Trustee telephone number: (541) 474-1908

**NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 USC SECTION 1692 (step 5)**

1. The amount of the debt is stated in the Trustee's Notice of Sale attached hereto.
2. The beneficiary named in the attached Trustee's Notice of Sale is the creditor to whom the debt is owed.
3. The debt described in the Trustee's Notice of Sale attached hereto will be assumed to be valid by the trustee unless the debtor, within thirty (30) days after the receipt of this notice, disputes the validity of the debt or some portion thereof.
4. If the debtor notifies the trustee in writing within thirty (30) days of receipt of this notice that the debt or any portion thereof is disputed, the trustee will provide verification of the debt, and a copy of the verification will be mailed to the debtor by the trustee.
5. If the creditor named as beneficiary in the attached Trustee's Notice of Sale is not the original creditor, and if the debtor makes a written request to the trustee within the thirty (30) days from the receipt of this notice, the name and address of the original creditor will be mailed to the debtor by the trustee.
6. Written requests or objections should be addressed to:  
  

**Patrick Kelly, Attorney**  
**717 NW 5<sup>th</sup> Street**  
**Grants Pass, Oregon 97526**
7. This communication is an attempt to collect a debt, and any information obtained will be used for that purpose.