

2019-010342

Klamath County, Oregon

09/05/2019 03:00:02 PM

Fee: \$97.00

**NOTICE OF DEFAULT
AND ELECTION TO SELL**

RE: Trust Deed from:
BARRY L FAGANELLO, Grantor
To:
Nathan F. Smith, Esq., OSB #120112

After recording return to:

Malcolm & Cisneros, A Law Corporation
Attention: Nathan F. Smith, Esq., OSB
#120112
c/o TRUSTEE CORPS
17100 Gillette Ave
Irvine, CA 92614

TS No. OR08000076-19-1

APN R882709

TO No 190933245-OR-MSO

Reference is made to that certain Trust Deed made by BARRY L FAGANELLO as Grantor, to FIRST AMERICAN TITLE INSURANCE COMPANY as Trustee, in favor of BANK OF AMERICA, N.A. as original Beneficiary, dated as of April 5, 2005 and recorded April 12, 2005 in the records of Klamath County, Oregon in Book M05, on Page 25199 covering the following described real property situated in the above-mentioned county and state, to wit:

APN: **R882709**

LOT 282, RUNNING Y RESORT, PHASE 3, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

The undersigned hereby certifies that no assignments of the Trust Deed by the Trustee, Nathan F. Smith, Esq., OSB #120112, or by the Beneficiary, **BANK OF AMERICA, N.A.**, and no appointments of a successor Trustee have been made, except as recorded in the records of the county or counties in which the above described real property is situated. Further, no action has been instituted to recover the debt, or any part thereof, now remaining secured by the Trust Deed, 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 Grantor or other person owing an obligation, performance of which is secured by the Trust Deed or by the successor in interest, with respect to provisions therein which authorize sale in the event of such provision. The default for which foreclosure is made is Grantor's failure to pay when due the following sums:

The total monthly payment(s) in the amount of **\$4,361.50** beginning **December 1, 2018**, as follows:

\$2,598.66 = 6 monthly payment(s) at \$433.11

\$1,762.84 = 4 monthly payment(s) at \$440.71

By reason of said default, the Beneficiary has declared all sums owing on the obligation secured by said Trust Deed immediately due and payable totaling **\$65,284.82**, said sums being the following:

1. Principal balance of **\$58,839.04** and accruing interest as of **September 3, 2019**, per annum, from **November 1, 2018** until paid.
2. **\$2,455.86** in interest
3. **\$604.89** in uncollected late charges
4. **\$82.00** in county recording fees
5. **\$1,720.84** in other amounts due
6. **\$1,582.19** in additional fees and costs
7. Together with title expenses, costs, Trustees fees and attorney fees incurred here in by reason of said default and any further sums advanced by the Beneficiary for the protection of the above described real property and its interest there in.

By reason of the default, 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: **Failed to pay payments which became due**

Notice hereby is given that the Beneficiary and Trustee, by reason of default, have elected and do hereby elect to foreclose the Trust Deed by advertisement and sale pursuant to ORS 86.705 to 86.815, and to cause to be sold at public auction to the highest bidder for cash the interest in the described property which grantor had, or had the power to convey, at the time of the execution by Grantor of the Trust Deed, together with any interest Grantor or Grantor's successor in interest acquired after the execution of the trust deed, to satisfy the obligations secured by the Trust Deed 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 **10:00 AM**, in accord with the standard of time established by ORS 187.110, on **January 13, 2020** at the following place: **on the Main Street entrance steps to the Klamath County Circuit Court, 316 Main St, Klamath Falls, OR 97601**

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 Trust Deed, or of any successor in interest to grantor or of any lessee or other person in possession of or occupying the property except:

BARRY FAGANELLO
5991 COOPERS HAWK RD, KLAMATH FALLS, OR 97601

OCCUPANT
5991 COOPERS HAWK ROAD, KLAMATH FALLS, OR 97601

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), together with costs, Trustee's and attorney's fees, 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, at any time prior to five days before the date last set for sale.

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.

In construing this notice, the singular gender 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 said Trust Deed, and the words "Trustee" and "Beneficiary" include their respective successors in interest, if any.

Dated: September 04, 2019

By: Nathan F. Smith, Esq., OSB #120112
Successor Trustee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

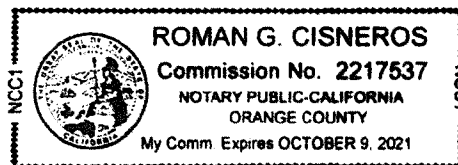
STATE OF CALIFORNIA
COUNTY OF ORANGE

On September 04, 2019, before me, ROMAN G. CISNEROS, Notary Public, personally appeared NATHAN F. SMITH, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public Signature



Malcolm & Cisneros, A Law Corporation
Attention: Nathan F. Smith, Esq., OSB #120112
c/o TRUSTEE CORPS
17100 Gillette Ave, Irvine, CA 92614
949-252-8300

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

To the extent your original obligation was discharged, or is subject to an automatic stay of bankruptcy under Title 11 of the United States Code, this notice is for compliance and/or informational purposes only and does not constitute an attempt to collect a debt or to impose personal liability for such obligation. However, a secured party retains rights under its security instrument, including the right to foreclose its lien.



**CERTIFICATE OF COMPLIANCE
STATE OF OREGON
FORECLOSURE AVOIDANCE PROGRAM**

AFTER RECORDING RETURN TO:
Roman G Cisneros
For Malcolm & Cisneros, For Bank of America
2112 Business Center Drive
Irvine, CA 92612

8/13/2019

Grantor:	BARRY L FAGANELLO
Beneficiary:	BANK OF AMERICA N.A.
Property Address:	5991 COOPERS HAWK ROAD KLAMATH FALLS, OR 97601
Instrument / Recording No. Date / County	Instrument Number: Book M05, Page 25199 Recording Number: Book M05, Page 25199 Loan Number: [REDACTED] 4/12/2005 Klamath
Case Number	BI-190702-8235

1. The Service Provider hereby certifies that:

☐ The beneficiary and/or its agent complied with the requirements of Oregon Laws 2013, Chapter 304, sections 2, 3, and 4;
or

☒ The grantor did not pay the required fee by the deadline.

2. On this date, I mailed the original certificate to the beneficiary and provided a copy to the grantor and the Attorney General electronically or by mail.

DATED this 13 day of August, 2019

ANNETTE PHELPS
Compliance Officer, Oregon Foreclosure Avoidance Program

STATE OF OREGON)
) ss.
County of Multnomah)

The foregoing instrument was acknowledged before me on AUGUST 13TH, 2019, by ANNETTE PHELPS
[Print Name]
as Compliance Officer of Mediation Case Manager.



Notary Public - State of Oregon
My Commission Expires: 09/03/2022