

Submitted for Reoordation By and Return to



Office Address City State Zip CONSUMER LOAN SERVICING #1324 P O BOX 2240 BREA, CA 92622

Loan #: 20030602953459001

Reference #: 010321-952991247800

(Space Above This Line For Recording Date)

M 21492 LCP

DEED OF TRUST

This Deed of Trust is made on 9th November, 1995 among BRANT DWAYNE COLSTON AND SUZANNE LEIGH KVASNICKA, WHO ARE MARRIED TO EACH OTHER

(collectively and individually "Trustor"); Equitable Deed Company ("Trustee"); and the beneficiary, Bank of America Nevada, a Nevada Banking Corporation ("Bank"). Any non-titleholder signs below as Trustor solely for the purpose of subjecting his or her community property interest, if any in the property described below to this Deed of Trust. The words "you" and "your" in this document refer to Trustor.

You and Bank agree:

1. In consideration of the indebtedness described below and the trust created by this Deed of Trust, you irrevocably grant and convey to Trustee, in trust with power of sale, the property located in the County of DOUGLAS State of Nevada, described as follows:

LOT 15, SARATOGA HEIGHTS UNIT NO. 2. AS PER MAP THEREOF FILED DECEMBER 5, 1986 AS DOCUMENT NO. 34826.

with the street address: 1322 SARATOGA LN, MINDON, NV 89423 and with Parcel No. 21-061-06

together with all improvements and fixtures now or later erected on the property, and all easements, rights, appurtenances and fixtures now or hereafter made a part of the property, all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property ("Property");

This Deed of Trust secures (1) all of the obligations of the borrowers under the Disclosure and Loan Agreement dated 11/09/95 and naming BRANT DWAYNE COLSTON AND SUZANNE LEIGH COLSTON

as borrowers, in the original principal sum of \$ 20,000.00 with interest thereon, as well as any modifications, extensions and renewals thereof (collectively, the "Loan Agreement"), (2) the repayment of all other sums, with interest thereon, advanced in accordance with this Deed of Trust, and (3) the performance of each obligation in this Deed of Trust.

**2. Payment of Principal and Interest.** You will pay or cause to be paid all obligations evidenced by the Loan Agreement as provided therein.

**3. Prior Mortgages and Deeds of Trust; Charges; Liens.** You will perform or cause to be performed all of your obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust. You will pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.

**4. Insurance.** Trustor will keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. Trustor will maintain this insurance in the amounts and for the periods that Lender requires. Trustor is free to buy insurance from any insurance company authorized to do business in Nevada subject to Lender's right to refuse any insurance company for reasonable cause. If Trustor fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender will have the right to hold the policies and renewals. If Lender requires, Trustor will promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Trustor will give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Trustor.

Unless Trustor and Lender otherwise agree in writing, insurance proceeds will be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds will be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. If Trustor abandons the Property, or does not answer a notice from Lender that the insurance carrier has offered to settle a claim within 30 days, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Deed of Trust, whether or not then due. The 30-day period will begin when the notice is given.

Unless Trustor and Lender otherwise agree in writing, any application of proceeds to principal will not extend or postpone the due date of the monthly payments referred to in Paragraph 1 and Paragraph 2 or change the amount of the payments. If the Property is acquired by Lender under Paragraph 13, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition will pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

**5. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** You will keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or planned unit development ("PUD"), you will perform all of your obligations under the Covenants, Conditions and Restrictions (the "Declaration"), Articles of Incorporation, Trust Instrument or any equivalent documents which creates the homeowner's association or equivalent entity owning or managing the common areas and facilities of the condominium or planned unit development (the "Owners Association") and any bylaws or other rules or regulations of the Owners Association. You will promptly pay, when due, all dues and assessments imposed by the Owners Association. In the event of a distribution of hazard insurance proceeds, in lieu of restoration or repair following a loss to the Property or to common areas and facilities on the condominium or PUD, any proceeds payable to you are hereby assigned and shall be paid to Bank and Bank, at its option, may apply such proceeds to restoration or repair of the property or to sums secured by this Deed of Trust. You will take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount and extent of coverage to Bank. You will not, except after notice to Bank and with Bank's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the condominium or PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the Declaration of other documents creating or governing the Owners Association if the provision is for the express benefit of Bank; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Bank.

**6. Environmental Responsibilities.** To your knowledge, there has been no disposal, discharge, deposit, injection, dumping, leaking, spilling, placing or escape of any toxic or hazardous substance, waste, pollutant or contaminant (as those items are defined or described under Federal and state laws) on, in, under or from any of Property and there is or will be no facility in, or on any such Property which is to be used for the treatment, storage or disposal of any toxic or hazardous substance, waste, pollutant or contaminant (as those items are defined or described in Federal and state laws). You indemnify and save and hold harmless Bank and its successors and assigns from and against all claims, liabilities, proceedings, suits, losses, damages (including without limitation punitive damages), judgments and environmental response and clean-up costs, fines, penalties and expenses (including without limitation reasonable attorneys' fees, costs and expenses incurred in investigating and defending against the assertion of any such liabilities, regardless of their merit), which may be asserted against, sustained, suffered or incurred by Bank or its successors and assigns because of the existence of any such toxic or hazardous substance, waste, pollutant or contaminant. This indemnity shall include, without limitation, claims asserted by any Federal or state governmental agency or any private party and shall continue in effect following any foreclosure, release and reconveyance of this Deed of Trust or other realization upon the security of Bank or its successors and assigns.

**7. Protection of Bank's Security Interest.** If you fail to perform your obligations under this Deed of Trust, or if any action or proceeding adversely affects Bank's interest in the Property, Bank may, at Bank's option, take any action reasonably necessary (including, without limitation, paying expenses and attorney fees) to perform your obligations or to protect Bank's interest.

Any sums that Bank pays in accordance with this Paragraph 7 will be additional indebtedness secured by this Deed of Trust. These payments will be subject to interest at the rate set forth in the Loan Agreement and will be due and payable by you immediately upon Bank's demand. Nothing contained in this paragraph shall require Bank to incur any expense or take any action hereunder.

**8. Inspection.** Bank may enter and inspect the Property, after giving you reasonable prior notice.

**9. Eminent Domain.** The proceeds of any award or claim for damages, direct or consequential, in connection with any eminent domain action or other condemnation or taking of the Property (and if the Property is a unit in a condominium or PUD, the common areas and facilities, or any part thereof), or for any conveyance in lieu thereof, are hereby assigned and shall be paid to Bank, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

**10. Not Released From Liability; Forbearance By Bank Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Bank to you, any borrower under the Loan Agreement or any successor in interest shall not operate to release from liability you, any borrower under the Loan Agreement or any successors in interest. Bank shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by you and your successors in interest. Any forbearance by Bank in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

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**11. Successors In Interest; Joint and Individual Liability; Co-Signers.** This Deed of Trust will bind and benefit the successors in interest of you and Bank, subject to Paragraph 14 below. If more than one Trustor is signing this Deed of Trust, your obligations will be joint and individual. If you are not a borrower in the Loan Agreement then you are: (a) signing this Deed of Trust only to grant and convey your interest in the Property to Trustee according to this Deed of Trust, (b) not personally liable for obligations under the Loan Agreement, and (c) agreeing that Bank and any borrower under the Loan Agreement may extend, modify, forbear, or make any other agreements relating to this Deed of Trust without your consent, and without releasing you from this Deed of Trust or any extension or modification of this Deed of Trust.

**12. Notices.** Any notice to you provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. If a mailing address appears below opposite your signature, notices to you shall be sent to the address indicated. Otherwise notices shall be sent to you at the Property Address on page 1 of this Deed of Trust or at such other address as you shall designate by written notice to Bank.

Any notice to Bank shall be given by first class mail to Bank's address on page 1 of this Deed of Trust or any other address Bank designates by notice to you.

Any notice provided for in this Deed of Trust shall be deemed to have been given to you or Bank when given as provided in this paragraph.

**13. Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Loan Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Loan Agreement which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Loan Agreement are declared to be severable. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein. "Attorneys' fees" include fees for the services of independent counsel that Bank hires, or Bank's own salaried lawyers.

**14. Due on Sale.** If all or any part of the Property or any interest in it is sold or transferred (or if you sell or transfer a beneficial interest and you are not a natural person) without Bank's prior written consent, Bank may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Bank if exercise is prohibited by federal law as of the date of this Deed of Trust.

If Bank exercises this option, Bank shall give you notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which you must pay or cause to be paid all sums secured by this Deed of Trust. If these sums are not paid prior to the expiration of this period, Bank may invoke any remedies permitted by this Deed of Trust without further notice or demand on you.

**15. Acceleration; Remedies.** Except as provided in Paragraph 14 hereof, upon the breach of any covenant or agreement in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Bank prior to acceleration shall give notice to you as provided in Paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to you, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. If the breach is not cured on or before the date specified in the notice, Bank, at Bank's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Bank shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Paragraph 15, including, but not limited to, reasonable attorneys' fees.

If Bank invokes the power of sale, Bank shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Bank's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Bank or Trustee shall give notice of sale in the manner prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on you, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Bank or Bank's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be **prima facie** evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any to the person or persons legally entitled thereto.

**16. Assignment of Rents.** You unconditionally assign to Bank all rents and proceeds of the Property, including all prepaid rents and security deposits ("Rents"), and confer upon Bank the right to collect such Rents with or without taking possession of the Property. This is an absolute assignment, not as assignment for security only.

Notwithstanding the above assignment of Rents, the Bank grants you a license to collect such Rents until Bank invokes any right under Paragraph 15 above.

**17. Substitute of Trustee.** In accordance with applicable law, at Bank's option, Bank may from time to time appoint a substitute trustee to replace Trustee by executing an instrument and recording it with the Recorder in the county stated above.

**18. Request for Notices.** Bank requests that copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Bank's address, as set forth on page one of this Deed of Trust, as provided by Nevada Revised Statutes.

**19. Riders of this Deed of Trust.** If one or more riders are executed by you and recorded together with this Deed of Trust, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Deed of Trust as if the rider(s) were a part of this Deed of Trust.

[Check applicable box(es)]

Unaffixed Mobilehome/Manufactured Home Rider

Mobilehome/Manufactured Home Fixture Rider

Other(s) [specify]

**20. Leasehold.** If this Deed of Trust is on a leasehold: You shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease creating said estate and interest, and you shall not, without the express written consent of Bank, alter or amend said ground lease. You covenant and agree that there shall not be a merger of the ground lease, or the leasehold estate created thereby, with the fee estate covered by the ground lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, unless Bank shall consent in writing to such merger; if you shall acquire such fee estate, then this Instrument shall simultaneously and without further action be spread so as to become a lien on such fee estate.

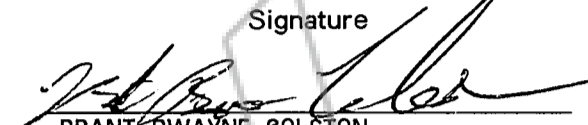
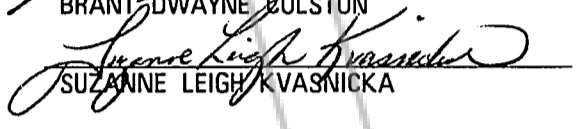
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21. **Your Copy.** You shall be furnished a conformed copy of the Loan Agreement and of this Deed of Trust at the time of execution or after recordation hereof.

22. **Reconveyance.** Upon the payment of all sums secured by this Deed of Trust, Bank shall request Trustee to reconvey the property and also shall return this Deed of Trust and Loan Agreement evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay all costs of reconveyance and recordation, if any.

BY SIGNING BELOW, you accept and agree to the terms and covenants contained in this Deed of Trust and in any rider(s) executed by you and recorded with it.

MAILING ADDRESS FOR NOTICES

Street	City and State	Signature
1322 SARATOGA LN	MINDON, NV 89423	 BRANT DWAYNE COLSTON
		 SUZANNE LEIGH KVASNICKA

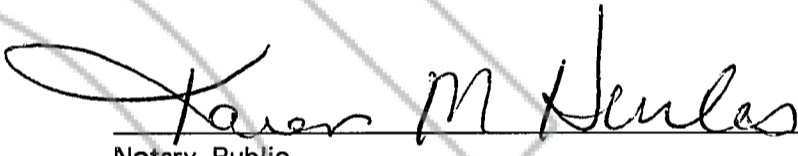
GENERAL ACKNOWLEDGEMENT

STATE OF NEVADA  
COUNTY OF Carson City

On this 9<sup>th</sup> day of November, 1995, personally appeared before me, a Notary Public (or judge or other authorized person, as the case may be) in, and for said County and State, Brant Dwayne Colston  
Suzanne Leigh Kvasnicka known (or proved) to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he/she/they executed the same freely and voluntarily and for the uses and purposes therein mentioned.



KAREN M. HURLES  
Notary Public - State of Nevada  
Appointment Recorded in Carson City  
MY APPOINTMENT EXPIRES MAR. 26, 1997

  
Notary Public

REQUESTED BY  
**WESTERN TITLE COMPANY, INC.**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

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