

Assessor's Parcel Number:  
1220-22-110-046  
After Recording Return To:

REQUESTED BY  
**Stewart Title of Douglas County**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2004 MAY 28 PM 1:54

WERNER CRISTEN  
RECORDER

*21.00* PAID *OK* DEPUTY

MS SV-79 DOCUMENT PROCESSING  
P.O.Box 10423  
Van Nuys, CA 91410-0423  
Prepared By:  
ANN-MARIE WILSON  
Recording Requested By:  
D. User

Capital One F.S.B.

1571 SAWGRASS CORP PKWY 4TH  
FL  
SUNRISE  
FL 33323

This document is recorded as an  
ACCOMMODATION ONLY and without liability  
for the consideration therefor, or  
as to the validity or sufficiency  
of said instrument, or for the effect  
of such recording on the title of the  
property involved.

[Space Above This Line For Recording Data]

0006326175105004  
[Doc ID #]

**DEED OF TRUST**

(Line of Credit)

THIS DEED OF TRUST, dated MAY 17, 2004, is between  
TOBIE MCCUBBIN, AND SHERRY MCCUBBIN, UNMARRIED, SINGLE, JOINT  
TENANTS

residing at  
781 LASSEN WAY, GARDNERVILLE, NV 89460

the person or persons signing as "Grantor(s)" below and hereinafter referred to as "we" or "us" and  
CTC REAL ESTATE SERVICES

as trustee and hereinafter referred to as the "Trustee," with an address at  
400 COUNTRYWIDE WAY MSN-SV88  
SIMI VALLEY, CA 93065

• HELOC - Deed of Trust  
1C527-NV (06/03)(d)

Page 1 of 7

Initials: TM SAM



\* 2 3 9 9 1 \*



\* 0 6 3 2 6 1 7 5 1 0 0 0 0 1 C 5 2 7 \*

0614631

BK0504PG14958

for the benefit of  
Capital One F.S.B.

with an address at  
1680 Capital One Drive, McLean, VA 22102

and hereinafter referred to as "you" or the "Beneficiary."

PREMISES: In consideration of the loan hereinafter described, we hereby mortgage, grant and convey to the Trustee the premises located at:

781 LASSEN WAY, GARDNERVILLE  
Street, Municipality

DOUGLAS Nevada 89460 (the "Premises").  
County ZIP

and further described as:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The Premises includes all buildings and other improvements now or in the future on the Premises and all rights and interests which derive from our ownership, use or possession of the Premises and all appurtenances thereto.

LOAN: The Deed of Trust will secure your loan in the principal amount of  
\$ 50,734.00 or so much thereof as may be advanced and readvanced from time to time to  
TOBIE MCCUBBIN  
SHERRY MCCUBBIN

the Borrower(s) under the Home Equity Credit Line Agreement And Disclosure Statement (the "Note") dated  
MAY 17, 2004, plus interest and costs, late charges and all other charges related to  
the loan, all of which sums are repayable according to the Note. This Deed of Trust will also secure the

performance of all of the promises and agreements made by us and each Borrower and Co-Signer in the Note, all of our promises and agreements in this Deed of Trust, any extensions, renewals, amendments, supplements and other modifications of the Note, and any amounts advanced by you under the terms of the section of this Deed of Trust entitled "Our Authority To You." Loans under the Note may be made, repaid and remade from time to time in accordance with the terms of the Note and subject to the Credit Limit set forth in the Note.

**OWNERSHIP:** We are the sole owner(s) of the Premises. We have the legal right to mortgage, grant and convey the Premises to the Trustee.

**BORROWER'S IMPORTANT OBLIGATIONS:**

(a) **TAXES:** We will pay all real estate taxes, assessments, water charges and sewer rents relating to the Premises when they become due. We will not claim any credit on, or make deduction from, the loan under the Note because we pay these taxes and charges. We will provide you with proof of payment upon request.

(b) **MAINTENANCE:** We will maintain the building(s) on the Premises in good condition. We will not make major changes in the building(s) except for normal repairs. We will not tear down any of the building(s) on the Premises without first getting your consent. We will not use the Premises illegally.

If this Deed of Trust is on a unit in a condominium or a planned unit development, we shall perform all of our obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development and constituent documents.

(c) **INSURANCE:** We will keep the building(s) on the Premises insured at all times against loss by fire, flood and any other hazards you may specify. We may choose the insurance company, but our choice is subject to your reasonable approval. The policies must be for at least the amounts and the time periods that you specify. We will deliver to you upon your request the policies or other proof of the insurance. The policies must name you as "mortgagee" and "loss-payee" so that you will receive payment on all insurance claims, to the extent of your interest under this Deed of Trust, before we do. The insurance policies must also provide that you be given not less than 10 days prior written notice of any cancellation or reduction in coverage, for any reason. Upon request, we shall deliver the policies, certificates or other evidence of insurance to you. In the event of loss or damage to the Premises, we will immediately notify you in writing and file a proof of loss with the insurer. You may file a proof of loss on our behalf if we fail or refuse to do so. You may also sign our name to any check, draft or other order for the payment of insurance proceeds in the event of loss or damage to the Premises. If you receive payment of a claim, you will have the right to choose to use the money either to repair the Premises or to reduce the amount owing on the Note.

(d) **CONDEMNATION:** We assign to you the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Premises, or part thereof, or for conveyance in lieu of condemnation, all of which shall be paid to you, subject to the terms of any Prior Deed of Trust.

(e) **SECURITY INTEREST:** We will join with you in signing and filing documents and, at our expense, in doing whatever you believe is necessary to perfect and continue the perfection of your lien and security interest in the Premises.

(f) **OUR AUTHORITY TO YOU:** If we fail to perform our obligations under this Deed of Trust, you may, if you choose, perform our obligations and pay such costs and expenses. You will add the amounts you advance to the sums owing on the Note, on which you will charge interest at the interest rate set forth in the Note. If, for example, we fail to honor our promises to maintain insurance in effect, or to pay filing fees, taxes

or the costs necessary to keep the Premises in good condition and repair or to perform any of our other agreements with you, you may, if you choose, advance any sums to satisfy any of our agreements with you and charge us interest on such advances at the interest rate set forth in the Note. This Deed of Trust secures all such advances. Your payments on our behalf will not cure our failure to perform our promises in this Deed of Trust. Any replacement insurance that you obtain to cover loss or damages to the Premises may be limited to the amount owing on the Note plus the amount of any Prior Deeds of Trust.

(g) PRIOR DEED OF TRUST: If the provisions of this paragraph are completed, this Deed of Trust is subject and subordinate to a prior deed of trust dated JUNE 01, 2002 and given by us for the benefit of WELLS FARGO HOME MORTGAGE

as beneficiary, in the original amount of \$ 225,265.00 (the "Prior Deed of Trust"). We shall not increase, amend or modify the Prior Deed of Trust without your prior written consent and shall upon receipt of any written notice from the holder of the Prior Deed of Trust promptly deliver a copy of such notice to you. We shall pay and perform all of our obligations under the Prior Deed of Trust as and when required under the Prior Deed of Trust.

(h) HAZARDOUS SUBSTANCES: We shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Premises. We shall not do, nor allow anyone else to do, anything affecting the Premises that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Premises of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Premises. As used in this paragraph, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, "Environmental Law" means federal laws and laws of the jurisdiction where the Premises are located that relate to health, safety or environmental

(i) SALE OF PREMISES: We will not sell, transfer ownership of, mortgage or otherwise dispose of our interest in the Premises, in whole or in part, or permit any other lien or claim against the Premises without your prior written consent.

(j) DUE-ON-SALE: In the event that we, or any successor to our interest in the Premises, sells or contracts to sell or transfers any interest in the Premises, either voluntarily or involuntarily, at your option, you may declare the full amount owed under the Note and secured by this Deed of Trust immediately due and payable even though the time for maturity as expressed in the Note may not have arrived.

(k) INSPECTION: We will permit you to inspect the Premises at any reasonable time.

NO LOSS OF RIGHTS: The Note and this Deed of Trust may be negotiated or assigned by you without releasing us or the Premises. You may add or release any person or property obligated under the Note and this Deed of Trust without losing your rights in the Premises.

DEFAULT; ACCELERATION: Except as may be prohibited by applicable law, and subject to any advance notice and cure period if required by applicable law, if any event or condition described in Paragraph 12.A of the Note occurs, you may declare all amounts secured by this Deed of Trust immediately due and payable and the Trustee may foreclose upon this Deed of Trust or sell the Premises at a public sale. This means that you or the Trustee may arrange for the Premises to be sold, as provided by law, in order to pay off what we owe

Initials: TM SAM

0614631

BK0504PG14961

on the Note and under this Deed of Trust. If the money you receive from the sale is not enough to pay off what we owe you, we will still owe you the difference which you may seek to collect from us in accordance with applicable law. In addition, you or the Trustee may, in accordance with applicable law, (i) enter on and take possession of the Premises; (ii) collect the rental payments, including over-due rental payments, directly from tenants; (iii) manage the Premises; and (iv) sign, cancel and change leases. We agree that the interest rate set forth in the Note will continue before and after a default, entry of a judgment and foreclosure or public sale. In addition, you shall be entitled to collect all reasonable fees and costs actually incurred by you in proceeding to foreclosure or to public sale, including, but not limited to, trustee's fees, reasonable attorneys fees and costs of documentary evidence, abstracts and title reports.

**ABSOLUTE ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER:** We hereby unconditionally assign to you the rents of the Premises. Nevertheless, you will allow us to use the rents, if any, until such time as any event or condition of default as described in Paragraph 12.A of the Note occurs. You or a receiver appointed by the courts shall be entitled to enter upon, take possession of and manage the Premises and collect the rents of the Premises including those past due.

**WAIVERS:** To the extent permitted by applicable law, we waive and release any error or defects in proceedings to enforce this Deed of Trust and hereby waive the benefit of any present or future laws providing for stay of execution, extension of time, exemption from attachment, levy and sale and homestead exemption.

**BINDING EFFECT:** Each of us shall be fully responsible for all of the promises and agreements in this Deed of Trust. Until the Note has been paid in full and your obligation to make further advances under the Note has been terminated, the provisions of this Deed of Trust will be binding on us, our legal representatives, our heirs and all future owners of the Premises. This Deed of Trust is for your benefit and for the benefit of anyone to whom you may assign it. Upon payment in full of all amounts owing to you under the Note and this Deed of Trust, and provided any obligation to make further advances under the Note has terminated, this Deed of Trust and your rights in the Premises shall end.

**NOTICE:** Except for any notice required under applicable law to be given in another manner, (a) any notice to us provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by regular first class mail addressed to us at the last address appearing in your records or at such other address as we may designate by notice to you as provided herein, and (b) any notice to you shall be given by certified mail, return receipt requested, to your address at  
Capital One F.S.B.

1680 Capital One Drive, McLean, VA 22102

or to such other address as you may designate by notice to us. Any notice provided for in this Deed of Trust shall be deemed to have been given to us or you when given in the manner designated herein.

**RELEASE:** Upon payment of all sums secured by this Deed of Trust and provided your obligation to make further advances under the Note has terminated, the Trustee shall discharge this Deed of Trust without charge to us, except that we shall pay any fees for recording of a satisfaction of this Deed of Trust.

**GENERAL:** You or the Trustee can waive or delay enforcing any of your rights under this Deed of Trust without losing them. Any waiver by you of any provisions of this Deed of Trust will not be a waiver of that or any other provision on any other occasion.

**TRUSTEE:** Trustee accepts the trusts herein created when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee, by its acceptance hereof, agrees to perform and fulfill the trusts herein created, and shall be liable only for its negligence or misconduct. The

Initials: TM SAW

0614631

BK0504PG14962

Trustee waives any statutory fee and agrees to accept reasonable compensation from Grantor for any services rendered by it in accordance with the terms of this Deed of Trust. Upon receipt by Trustee of instructions from Beneficiary at any time or from time to time, Trustee shall (a) give any notice or direction or exercise any right, remedy or power hereunder or in respect of the Premises as shall be specified in such instructions, and (b) approve as satisfactory all matters required by the terms hereof to be satisfactory to Trustee or Beneficiary. Trustee may, but need not, take any of such actions in the absence of such instructions. Trustee may resign at any time upon giving of not less than 30 days' prior notice to Beneficiary, but will continue to act as trustee until its successor shall have been chosen and qualified. In the event of the death, removal, resignation, or refusal or inability to act of Trustee, Beneficiary shall have the irrevocable power, with or without cause, without notice of any kind, without specifying any reason therefor, and without applying to any court, to select and appoint a successor trustee by filing a deed or other instrument of appointment for record in each office in which this Deed of Trust is recorded, and upon such recordation the successor trustee shall become vested with the same powers, rights, duties and authority of the Trustee with the same effect as if originally made Trustee hereunder. Such successor shall not be required to give bond for the faithful performance of its duties unless required by Beneficiary.

THIS DEED OF TRUST has been signed by each of us under seal on the date first above written.

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

*Tobie McCubbin*

Grantor: TOBIE MCCUBBIN

(SEAL)

*Sherry McCubbin*

Grantor: SHERRY MCCUBBIN

(SEAL)

Grantor:

(SEAL)

Grantor:

(SEAL)



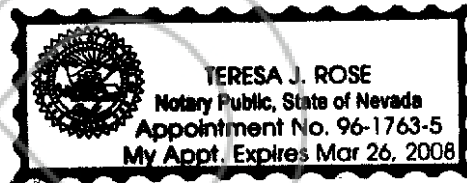
STATE OF NEVADA  
COUNTY OF *Douglas*

This instrument was acknowledged before me on May 17, 2004 by  
Tobie McCubbin and Sherry McCubbin

*[Handwritten Signature]*

Mail Tax Statements To:  
TOBIE MCCUBBIN

781 LASSEN WAY  
GARDNERVILLE, NV 89460



*[Large Faint Watermark: COOPER]*

Initials: TM SAM

EXHIBIT A

LOT 42, AS SHOWN ON THE OFFICIAL MAP OF GARDNERVILLE  
RANCHOS UNIT NO. 5, FILED FOR RECORD ON NOVEMBER 4, 1970 IN  
THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY,  
NEVADA, AS DOCUMENT NO. 30056.

ADDRESS: 781 LASSEN WAY; GARDNERVILLE, NV 89460 TAX MAP  
OR PARCEL ID NO.: 1220-22-110-046

COPY

0614631

BK0504PG14965