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OFFICIAL RECORD
Requested By:
First American National De
Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 8 Fee: \$221.00
BK-712 PG-1053 RPTT: 0.00



WHEN RECORDED MAIL TO:
Cooper Castle Law Firm, LLP
820 S. Valley View Blvd.
Las Vegas, NV 89107

T.S. No.: 11-09-33297-NV
APN: 1022-10-001-015
Title Report No.: 6012157
Property Address: 1240 Clay Cir, Wellington, NV 89444

**NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO CAUSE
SALE OF REAL PROPERTY UNDER DEED OF TRUST**

NOTICE IS HEREBY GIVEN THAT: THE COOPER CASTLE LAW FIRM, LLP, A MULTIJURISDICTIONAL LAW FIRM is the duly appointed Trustee under a Deed of Trust dated August 24, 2007, executed by Charles D Phillips and Nancy Phillips, as Trustor in favor of M&I Bank FSB, recorded on August 24, 2007 and recorded as. Instrument: 0708149 of Official Records in the office of the County recorder of Douglas County, Nevada securing, among other obligations:

One note(s) for the Original sum of \$380,000.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by the undersigned; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The installment of Principal, Interest, impounds and late fees which became due May 1, 2011 together with all subsequent installments of principal, interest, impounds, late fees and foreclosure fees and expenses. Any advances which may hereafter be made. All obligations and indebtedness as they become due and charges pursuant to said Note and Deed of Trust.

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a substitution of trustee and a request for Sale of the security pursuant to the Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may thereafter be sold. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.



T.S. No.: 11-09-33297-NV
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To determine if reinstatement is possible and the amount, if any, to cure the default, contact:

BMO Harris Bank N.A.
C/O The Cooper Castle Law Firm, LLP
A MultiJurisdictional Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile

BE ADVISED THAT THE COOPER CASTLE LAW FIRM, LLP A MULTIJURISDICTIONAL LAW FIRM MAY BE ACTING AS A DEBT COLLECTOR AND IS ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION PROVIDED BY YOU WILL BE USED FOR THAT PURPOSE.

Dated: July 3, 2012

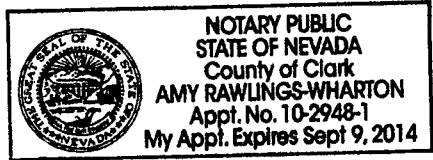
THE COOPER CASTLE LAW FIRM, LLP
A Multi-Jurisdictional Law Firm

By: _____
Attorney at Law, *Michael Chen*

State of NEVADA } ss.
County of CLARK }

On July 3, 2012, before me, *Amy Rawlings Wharton*, Notary Public, personally appeared *Michael Chen* personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Signature *Amy Rawlings Wharton* (Seal)
Charles D Phillips and Nancy Phillips / 11-09-33297-NV





STATE OF NEVADA FORECLOSURE
MEDIATION PROGRAM See Attached Instructions
ELECTION/WAIVER OF MEDIATION FORM

APN <u>1022-10-001-015</u>	TS # <u>11-09-33297-NV</u>
PROPERTY ADDRESS <u>1240 Clay Cir, Wellington, NV 89444</u>	
TRUSTEE <u>The Cooper Castle Law Firm, LLP</u>	
DATE OF DOT <u>August 24, 2007</u> Book/Pg/Inst Instrument: <u>0708149</u>	

ATTENTION: YOU MUST ACT WITHIN THIRTY (30) DAYS. IF NO ACTION IS TAKEN, THE FORECLOSURE MAY PROCEED

You have been served with an enclosed copy of Notice of Default and Election to Sell; which could result in the loss of your home.

The State of Nevada has created a mediation program for homeowners whose owner-occupied, primary residence is subject to foreclosure. Mediation is a process through which you and the lender meet with a neutral mediator to determine whether an agreement can be reached to cure any defaults in the loan or modify the terms of the loan to enable you to remain in your home. The mediator will be appointed by the Foreclosure Mediation Program Administrator. The mediator will **not** provide legal advice to either party. If you feel the need for legal representation, it is recommended that you consult an attorney concerning your rights and responsibilities and to assist you in the mediation.

Print Property Owner's Name _____
 Mailing Address _____
 Phone No: (____) _____ (Day)
 (____) _____ (Evening)
 Email: _____

Print Co-owner's Name: _____
 Mailing Address: _____
 Phone No: (____) _____ (Day)
 (____) _____ (Evening)
 Email: _____

(Please list additional property owners on a separate sheet of paper)

PLEASE SELECT ONE OF THE CHOICES BELOW:

ELECTION OF MEDIATION - The undersigned hereby request[s] that mediation be scheduled to attempt to work out a resolution of the loan. (\$200.00 Money Order or Cashier's Check **must be enclosed**; see below)

You must include ALL the following with your election form:

- \$200 Money Order/Cashier's Ck Notice of Default Housing Affordability
 Financial Statement

Do you have an open Bankruptcy proceeding? _____ If so, date filed? _____

WAIVER OF MEDIATION - The undersigned is/are aware of the right to seek mediation but have determined that I/we do not want to proceed with mediation and hereby waive the right to do so.

The undersigned hereby certifies under the penalty of perjury that I/we are the owner[s] of the real property that is the subject of the pending foreclosure and occupy the real property as my/our primary residence.

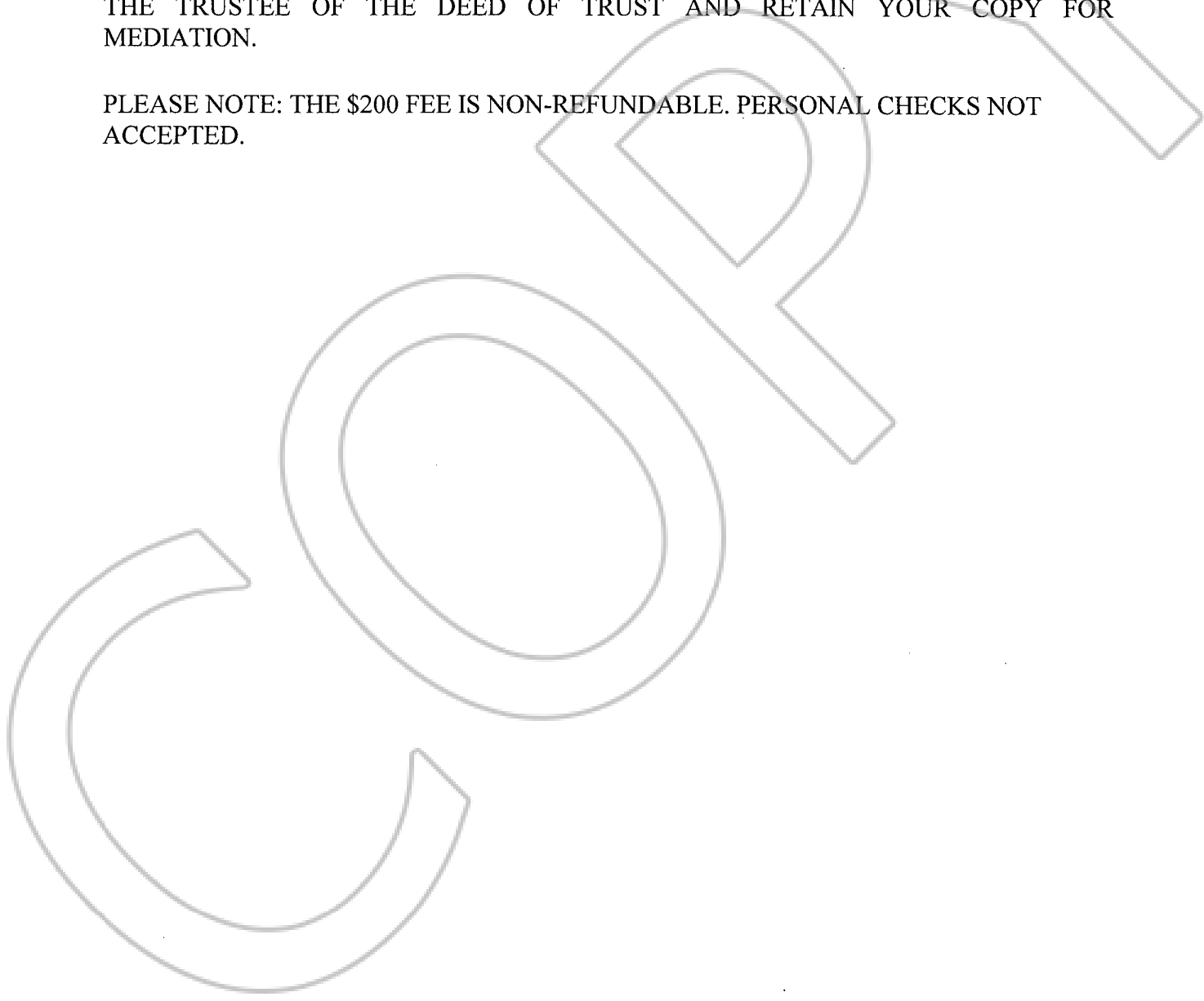
Signature of Property Owner _____ Date _____ Signature of Co-Owner _____ Date _____



IF YOU HAVE CHOSEN TO SEEK MEDIATION, YOU MUST SEND A MONEY ORDER OR CASHIER'S CHECK FOR \$200 PAYABLE TO: "STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM." THIS PAYMENT AND ALL FORMS MUST BE RETURNED TO THE PROGRAM ADMINISTRATOR WITHIN 30 DAYS OF RECEIVING THE NOTICE OF DEFAULT AND ELECTION TO SELL. FOR YOUR USE IN THIS PACKET ARE TWO UNSTAMPED, PREAMDRESSED ENVELOPES. SEND TO: 201 S. CARSON STREET, STE 277 B, CARSON CITY, NV 89701.

PLEASE COMPLETE TWO COPIES OF THIS FORM AND ALL OTHER REQUIRED FORMS AS STATED ABOVE, FORWARD THE ORIGINALS TO THE PROGRAM ADMINISTRATOR WITH THE \$200 PAYMENT, PLEASE ALSO SEND ONE COPY TO THE TRUSTEE OF THE DEED OF TRUST AND RETAIN YOUR COPY FOR MEDIATION.

PLEASE NOTE: THE \$200 FEE IS NON-REFUNDABLE. PERSONAL CHECKS NOT ACCEPTED.





STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM
INSTRUCTIONS FOR THE ELECTION/WAIVER OF MEDIATION FORM

To the Trustee:

You must fill out the top box on the Form including the Property Address, the Assessor's Parcel Number (APN), the Loan # and TS #, Dot #, Book/Page and instrument #. Please provide the homeowner with the Election/Waiver of Mediation, the Housing Affordability and the Financial Statement Forms as well as two preaddressed envelopes addressed to you (Trustee) and the Foreclosure Mediation Program (FMP) 201 S. Carson St, Ste 277B, Carson City, NV 89701.

To the Homeowner:

You are eligible to participate in this program if you:

1. **Have a recorded Notice of Default.**
2. If you do not have an open bankruptcy filed on or after July 1, 2009.
3. If you have been discharged from Bankruptcy or the court has ordered you into the FMP.
4. If this property is your **primary, owner occupied residential property**. Not a vacation, rental or other property where the homeowner does not live.

The ELECTION/WAIVER OF MEDIATION, the HOUSING AFFORDABILITY and the FINANCIAL STATEMENT and Notice of Default forms have been provided by the Trustee. You must complete the forms and send with your Election/Waiver of mediation form and a copy of the Notice of Default.

Print your name and mailing address in the spaces provided. Include your telephone numbers and your email addresses. If you have a co-owner, their name, address, phone numbers and email addresses must be included. This information will only be used for the mediation purposes.

In the designated location on the ELECTION/WAIVER OF MEDIATION form, you must select (with a check mark or "X") one of two choices. Select **ONLY** one:

1. "ELECTION OF MEDIATION" if you choose to enter into the Mediation Program; **OR**
2. "WAIVER OF MEDIATION" if you do not want to participate in the foreclosure Mediation Program.

If you choose to enter (Election of Mediation) into the Foreclosure Mediation Program:

You must then sign and date each form. **NOTE** that by signing the form you are certifying under penalty of perjury that you own and occupy the subject property as your primary residence.

Using the preaddressed envelopes, one completed copy of the forms must be mailed to the Trustee of the deed of trust by certified mail, return receipt requested.

The original of the completed forms must be mailed in the preaddressed envelope (addressed to the Foreclosure Mediation Program Administrator). If you elect mediation, you must **include \$200.00 (cashiers check or money order ONLY) along with all required forms payable to:**

**State of Nevada Foreclosure Mediation Program
201 S Carson St, Ste 277B,
Carson City NV 89701**

The envelope addressed to the ADMINISTRATOR must be mailed **no later than 30 days** after receiving the forms and the Notice of Default from the Trustee. You will need to pay the postage for the mailings.

If you do not want to participate (Waiver of Mediation) in the Foreclosure Mediation Program

If you decide to waive your right to mediation, please send the Election/Waiver of Mediation form to the Trustee and the Administrator in the pre addressed envelopes. If you waive your right to mediation, please do not send the \$200.00.

Should you have any questions please contact us at (702) 486-9386 or Foreclosure@nvcourts.nv.gov .



**Exhibit
NRS 107.080 Compliance Affidavit**

**AFFIDAVIT OF AUTHORITY TO EXERCISE THE
POWER OF SALE**

Property Owners:
Charles D. Phillips
Nancy Phillips

Trustee Address:
The Cooper Castle Law Firm, LLP
820 S. Valley View Blvd.
Las Vegas, NV 89107

Property Address:
1240 Clay Circle
Wellington, NV 89444

Deed of Trust Document Instrument
Number
0708149

STATE OF Wisconsin)
) ss:
COUNTY OF Waukesha)

The affiant, Kim Kolbow, based on personal knowledge following a review of public records in the State of Nevada and a review of business records kept in the regular course of business, attest that I am the foreclosure Specialist and authorized representative of BMO Harris (hereinafter "Beneficiary"), which Beneficiary is the beneficiary of the deed of trust described in the notice of default and election to sell to which this affidavit is attached ("Deed of Trust").

I further attest, under penalty of perjury, to the following information, as required by NRS 107.080(2) (c):

1. The full name and business address of the trustee or the trustee's representative or assignee is:

The Cooper Castle Law Firm, LLP, 820 S. Valley View Blvd., Las Vegas, NV 89107
Full Name Street, City, County, State, Zip



The full name and business address of the current holder of the note secured by the Deed of Trust is:

BMO Harris Bank, N.A. fka M&I Bank, FSB
770 N. Water Street
Milwaukee, WI 53202

The full name and business address of the current beneficiary of record of the Deed of Trust is:

BMO Harris Bank, N.A. fka M&I Bank, FSB
770 N. Water Street
Milwaukee, WI 53202

Street, City, County, State, Zip

The full name and business address of the servicers of the obligation or debt secured by the Deed of Trust is:

M&I Bank
770 N. Water Street
Milwaukee, WI 53202

2. The full name and last known business address of the current and every prior known beneficiary of the Deed of Trust, is:

BMO Harris Bank, N.A. fka M&I Bank, FSB
770 N. Water Street
Milwaukee, WI 53202

3. The beneficiary, successor in interest of the beneficiary, or trustee of the Deed of Trust, has actual or constructive possession of the note secured by the Deed of Trust.

4. The trustee has the authority to exercise the power of sale under Chapter 107 of NRS with respect to the property encumbered by the Deed of Trust, pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the Deed of Trust.

5. The following is information regarding the amount in default, the principal amount secured by the Deed of Trust, a good faith estimate of fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale:

- a. The amount of missed payments and interest in default is \$ 39,101.43.
- b. The amount of fees charged to the debtor in connection with the exercise of power of sale is \$ - 0 -.
- c. The principal amount secured by the Deed of Trust is \$ 375,064.22.



- d. A good faith estimate of all fees imposed and to be imposed because of the default is \$ To be determined .
- e. A good faith estimate of the total costs and fees to be charged to the debtor in connection with the exercise of the power of sale is \$ To be determined .

6. The following is information regarding the instrument(s) that conveyed the interest of each beneficiary:

<u>August 24, 2007</u>	<u>0708149</u>	<u>Deed of Trust</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary

7. Following is the true and correct signature of the affiant:

Dated this 22nd day of June, 2012.

Affiant Name: Kim Kolbow

Signed By: Kim Kolbow

Print Name: Kim Kolbow

STATE OF Wisconsin)
) ss:
 COUNTY OF Waukesha)

On this 22nd day of June, 2012, personally appeared before me, a Notary Public, in and for said County and State, Wisconsin, known to me to be the persons described in and who executed the foregoing instrument in the capacity set forth therein, who acknowledged to me that he/she executed the same freely and voluntarily and for the uses and purposes therein mentioned.

Rose Waldo

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

2515

