

**NOTICE OF DEFAULT DECLARATION**

FOR NOD'S RECORDED AFTER 9-6-08 ON LOANS MADE 1-1-03 TO 12-31-07 ON OWNER OCCUPIED PROPERTY

**BENEFICIARY DECLARATION OF COMPLIANCE WITH (OR EXCEPTION FROM) CIVIL CODE §2923.5 AND AUTHORIZATION OF AGENT (FOR NOTICE OF DEFAULT)**

**AND**

**LOAN SERVICER INSTRUCTIONS PURSUANT TO CIVIL CODE 2923.52 ET SEQ (SBX2\_7/ABX2\_7) FOR NOTICE OF SALE GIVEN AFTER 6-15-09**

T.D. Service Company  
1820 East First Street, Suite 210  
Santa Ana, CA 92705

\_\_\_\_\_ Commercial OR \_\_\_\_\_ Residential  
\_\_\_\_\_ Vacant (Raw Land)  
\_\_\_\_\_ Owner Occupied or \_\_\_\_\_ Non-Owner Occupied  
at the time the loan became delinquent?  
Lien Position 1<sup>st</sup> \_\_\_\_\_ Jr (2<sup>nd</sup>/3<sup>rd</sup>) \_\_\_\_\_

Borrower(s):  
Lender/Servicer:  
Property:  
Loan No.:

The undersigned beneficiary<sup>1</sup> or authorized agent for the beneficiary hereby represents and declares that [check the applicable box and fill in any blanks so that the trustee/foreclosure agent can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required pursuant to Civil Code § 2923.5]:

1.  The beneficiary or beneficiary's authorized agent has contacted the borrower pursuant to, and has complied with, Civil Code § 2923.5(a)(2) (contact provision to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure"). State the date "contact" with the borrower(s) was accomplished pursuant to Civil Code § 2923.5(a)(2).\_\_\_\_\_.
  
2.  The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required by California Civil Code § 2923.5(g) by sending a first class letter and, after waiting two weeks after the telephone call requirements of Civil Code § 2923.5(g)(2) were satisfied, the beneficiary or the beneficiary's authorized agent sent to the borrower(s), by certified mail, return receipt requested, the letter required by Civil Code § 2923.5(g)(3).
  
3.  Pursuant to Civil Code § 2923.5(h)(1), § 2923.55 (a) borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of

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<sup>1</sup> "Beneficiary" as used herein shall include "mortgagee".

the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

4.  Pursuant to Civil Code § 2923.5(h)(2), § 2923.55 (b) the beneficiary or beneficiary's authorized agent has evidence in its file, and reasonably believes, that the borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to beneficiaries.
  
5.  Pursuant to Civil Code § 2923.5(h)(3), the beneficiary or the beneficiary's authorized agent verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy, and the proceedings have not been finalized. "Finalized" is not defined by § 2923.5(h)(3). For purposes of this Code section, trustee, foreclosure agent and/or their authorized agent is defining the term as either: (1) an order closing the file by the court entered on the court's docket; or, (2) an order dismissing the bankruptcy case entered on the court's docket. If the beneficiary or the beneficiary's agent interprets "finalized" in another manner, please state the basis upon which the beneficiary believes that the bankruptcy has not been "finalized". \_\_\_\_\_
  

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6.  This loan is exempt. You are instructed that compliance with Civil Code §§ 2923.5 and 2924.8 is not necessary to proceed with preparing and processing a notice of default.

**LOAN SERVICER INSTRUCTIONS PURSUANT TO CIVIL CODE 2923.52 ET SEQ  
(SBX2\_7/ABX2\_7) Notice of Sale Given after 6-15-09**

7.  The Loan was made, purchased or serviced by a California state or local public housing agency or authority.
  
8.  The Loan is collateral for securities purchased by California state or local public housing agency or authority.
  
9.  This loan is exempt from 2923.53. The Servicer has obtained from the Commissioner a Temporary order of exemption dated \_\_\_\_\_.
  
10.  This loan is exempt from 2923.53. The Servicer has obtained from the Commissioner a Final order of exemption dated \_\_\_\_\_.

If you have a Temporary or Final Order of exemption, please forward to our office a copy of the order of exemption and a copy of your Civil Code Section 2923.54 (a) declaration that the trustee shall insert into its form of notice of sale OR (2) a copy of your form of notice of sale that includes the Civil Code Section 2923.54 (a) declaration, whichever the loan Servicer submitted to, or which was approved by the Commissioner as part of your application for exemption pursuant to Civil Code Section 2923.53.

If you have not obtained a temporary or final order of exemption, the loan servicer authorizes T.D. Service Company to include a declaration in the notice of sale and to execute the notice of sale and declaration on behalf of the loan servicer.

The undersigned authorizes the trustee, foreclosure agent and/or their authorized agent to sign, on behalf of the beneficiary, the notice of default containing the declaration required pursuant to Civil Code § 2923.5(b).

The undersigned authorizes the trustee, foreclosure agent and/or their authorized agent to sign on behalf of the Loan Servicer, the notice of sale which includes the declarations required pursuant to Civil Code 2923.54 (a).

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Beneficiary's/Authorized Agent's signature)

Print Name: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

(Loan Servicer/Authorized Agent's signature)

Print Name: \_\_\_\_\_

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