

Document 2008 2799

Book 2008 Page 2799 Type 03 014 Pages 5

Date 9/16/2008 Time 10:19 AM

Rec Amt \$27.00 Aud Amt \$5.00

INDX

ANNO

SCAN

LISA SMITH, COUNTY RECORDER

MADISON IOWA

CHEK

**AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE
CONTRACT**

THE IOWA STATE BAR ASSOCIATION

Official Form No. 176

Recorder's Cover Sheet

Preparer Information: (name, address and phone number)

Mark L. Smith, Post Office Box 230, Winterset, IA 50273, Phone: (515) 462-3731

Taxpayer Information: (name and complete address)

Marjorie A. and Kenneth Brokaw, 602 East Buchanan, Winterset, IA 50273

Return Document To: (name and complete address)

✓ Mark L. Smith, Post Office Box 230, Winterset, IA 50273, Phone: (515) 462-3731

Grantors:

Mark L. Smith

Grantees:

Legal Description: See Page 24

Document or instrument number of previously recorded documents: ***Document Number
TE***

AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE CONTRACT

TO WHOM IT MAY CONCERN: STATE OF IOWA, COUNTY OF MADISON

The undersigned, first being duly sworn upon oath (or upon affirmation) deposes and states:

That the relationship of the undersigned to this transaction appears from the **Notice of Forfeiture of Real Estate Contract, hereto attached, together with return(s) of service thereof**; which Notice and return(s) are by this reference made a part of this affidavit as fully as if set forth herein; that by reason of such relationship the facts herein stated are within the personal knowledge of such affiant.

That the parties served, as shown by said returns, included all parties in possession of said real estate at the time of service of said notice.

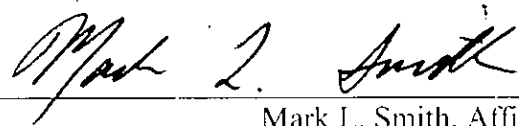
That, as shown by such returns, more than 30 days have passed since the service of such Notice.

That the default(s) mentioned in said Notice has not been removed nor performed nor paid in any amount by said vendee(s), nor by anyone; and that therefore the terms and conditions as to which there is and has been a default have not been performed within the 30 days mentioned in said Notice, nor at any time by anyone; nor has any sum been offered or tendered by said vendees or anyone; that vendor(s) has retaken possession of said real estate following the expiration of said 30 day period.

That the Real Estate Contract mentioned in said Notice specifically provides for the forfeiture of the vendee's(s') rights in such contract in accordance with Code Chapter 656.

That none of the parties upon whom such Notice of Forfeiture was so served, was at the time of the service of said Notice upon them, or at the time of making this affidavit, in the military service or with the Armed Forces of the United States of America, or are they or any of them in any way entitled to any rights under the Soldiers' and Sailors' Civil Relief Act or similar act or acts amendatory thereof or supplementary thereto.

That this affidavit is made as supporting proof, record and notice, that the contract referred to in said Notice of Forfeiture is now null and void, stands forfeited and canceled and is of no force and effect whatsoever.



Mark L. Smith, Affiant

Signed and sworn to (or affirmed) before me on Sept. 15, 2008, by Mark L. Smith.



Carol Kiernan, Notary Public

Notary Public in and for the State of Iowa.

The space as indicated above, is reserved to conveniently "tailor" for special situations and to set forth facts to sustain notice by publication or for both of such purposes. See Section 656.3; R.C.P. 60, 60.1 and 62. Suggested: That Personal Service could not and cannot be made upon _____ and _____ in the State of Iowa; that on the _____ day of _____, _____, a copy of said Notice was sent by ordinary mail addressed to said (party) (parties) at their last known mailing address, to-wit:

Iowa Code Chapter 656



NOTICE OF FORFEITURE OF REAL ESTATE CONTRACT

TO: Darrell Swisher, 704 East Benton, Winterset, IA 50273

You and each of you are hereby notified:

(1) The written contract dated October 2, 2007, and executed by Marjorie A. Brokaw and Kenneth Brokaw as Vendors, and Darrell Swisher and Jennifer Rowe

as Vendees, (insert recording data) recorded the 8th day of October, 2007, in the office of the MADISON County Recorder, recorded as document reference number Book 2007, Page 3756 for the sale of the following described real estate.

Lot Four (4) in Block Three (3) of Danforth's Addition to the City of Winterset, Madison County, Iowa

has not been complied with in the following particulars:

- (a) Monthly payments from 1/08 \$ _____
 - (b) through 8/08 have not been \$ _____
 - (c) paid totaling \$ 3,200.00
 - (d) \$ _____
- Total \$ 3,200.00

(2) The contract shall stand forfeited unless the parties in default, within 30 days after the completed service of this notice, shall perform the terms and conditions in default, and in addition pay the reasonable costs of serving this notice.

(3) The amount of attorney fees claimed by the Vendors pursuant to Section 656.7 of the Code of Iowa is \$ 50.00 (not to exceed \$50.00). Payment of the attorney fees is not required to comply with this notice in order to prevent forfeiture

MARJORIE A. BROKAW

KENNETH BROKAW

Vendors
(or Successors in Interest)

By

Mark L. Smith

Their Attorney -

Address: P.O. Box 230, Winterset, IA 50273

RETURN OF SERVICE

The within Notice of Forfeiture of Real Estate Contract, received the 14th day of August, 2008, and I certify that I served the same on the person(s) named below by delivering a copy thereof to said person(s) personally at the time and place set opposite his name:

I certify that I served, on August 14, 2008, a Notice of Forfeiture of Real Estate Contract, on Darrell Swisher, on him personally, at 704 East Benton, Winterset, IA 50273.

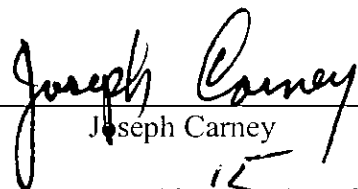
FEES:

Service: \$30.00

MEMO AND AFFIDAVIT OF SERVICE

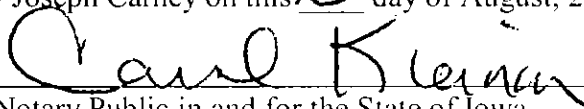
STATE OF IOWA :
:SS
MADISON COUNTY :

The undersigned, first being duly sworn upon oath, deposes and states that he served the attached notice or document on each of the persons named above by delivering a copy of said notice or document to each of said persons at the time and place set out above opposite their respective names:



Joseph Carney

Subscribed and sworn to before me by Joseph Carney on this 15 day of August, 2008..



Notary Public in and for the State of Iowa

