

Lane County
Sheriff's Office

AUG 15 2017

Received

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

FEDERAL NATIONAL MORTGAGE
ASSOCIATION ("FANNIE MAE"), A
CORPORATION ORGANIZED AND
EXISTING UNDER THE LAWS OF THE
UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODGER N. KALKHOVEN; THE
UNKNOWN HEIRS AND DEVISEES OF
JANET H. KALKHOVEN; CALVARY
PORTFOLIO SERVICES, LLC; CAPITAL
ONE BANK (USA), NATIONAL
ASSOCIATION; UNIFUND CCR
PARTNERS; MIDLAND FUNDING LLC;
UNKNOWN OCCUPANTS OF THE
PROPERTY

Defendants.

Case No.: 16CV07169

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LANE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 19, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Judgment Creditor:

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA

Submitted By:
Michael Scott
Attorney for Plaintiff

1 McCarthy & Holthus, LLP
2 920 SW 3rd Ave, 1st Floor
 Portland, OR 97204

3 With the adjudicated amount due of \$163,496.85, plus post judgment interest at the statutory rate
4 of 9.0% per annum from 4/19/2017 to 5/15/2017 in the amount of \$1,048.17, and continuing
5 with a per diem of \$40.31, currently totaling **\$164,545.02**.

6 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
7 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
8 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
9 about March 28, 2008, the date of the Deed of Trust, and also the interest that the Defendant had
10 thereafter, in the real property legally described in the attached *Exhibit 1* having APN/Parcel #
11 0326361 and commonly known as: 1733 H St., Springfield, OR 97477.

12 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
13 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
14 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.

15
16 June 7, 2017 By:
17 Court Clerk

19
20 Dated: May 15, 2017 and submitted by:

21 **McCarthy & Holthus, LLP**

22 s/Olga Groat

23 Ola Groat, OSB No. 170174
24 920 SW 3rd Ave, 1st Floor
25 Portland, OR 97204
26 Phone: (971) 201-3200
27 Fax: (971) 201-3202
28 ogroat@mccarthyholthus.com
 Of Attorneys for Plaintiff



EXHIBIT 1

LOT 7, BLOCK 3, MARYLHURST, A PLATTED AND RECORDED IN VOLUME 12, PAGE 27, LANE COUNTY OREGON PLAT RECORDS, IN LANE COUNTY, OREGON.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODGER N. KALKHOVEN; THE UNKNOWN HEIRS AND DEVISEES OF JANET H. KALKHOVEN; CALVARY PORTFOLIO SERVICES, LLC; CAPITAL ONE BANK (USA), NATIONAL ASSOCIATION; UNIFUND CCR PARTNERS; MIDLAND FUNDING LLC; UNKNOWN OCCUPANTS OF THE PROPERTY.

Defendants.

Case No.: 16CV07169

GENERAL JUDGMENT OF FORECLOSURE

I.

THIS MATTER came before the Court on Plaintiff's motion. Defendants RODGER N. KALKHOVEN, THE UNKNOWN HEIRS AND DEVISEES OF JANET H. KALKHOVEN, CALVARY PORTFOLIO SERVICES, LLC, CAPITAL ONE BANK (USA), NATIONAL ASSOCIATION, UNIFUND CCR PARTNERS, MIDLAND FUNDING LLC, and UNKNOWN OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- a. The real property to which this judgment relates is located and situated in Lane County, Oregon, and is commonly known as 1733 H St, Springfield, OR 97477 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 0326361.
- b. Plaintiff is entitled to enforce the note dated 3/28/2008 and made, delivered, and executed by Rodger Kalkhoven, Janet Kalkhoven to JP Morgan Chase Bank, N.A. in the amount of \$139,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendants Rodger N. Kalkhoven, Janet H. Kalkhoven on or about 3/28/2008 (the "Deed of Trust"). The Deed of Trust was recorded on 4/4/2008 as Instrument No. 2008-019007 in the official records of Lane County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for 4/1/2014 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$ 123,767.48
- b) Prejudgment interest accruing from 3/1/2014 through 4/12/2017 and continuing until the entry of judgment at the current Note rate of 6.750%: \$ 25,982.32
- c) Additional amounts due under the terms of the loan: \$ 9,818.05
- d) Attorney fees and costs: \$ 3,844.00

1 e) Prevailing party fee (ORS 20.190): \$ 85.00

2 **Total:** \$ 163,496.85

3 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
4 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
5 per annum.

6 e. The interest of the Defendants and any successor in interest in the Subject Property is
7 foreclosed and terminated excepting only any statutory right of redemption as provided by
8 Oregon law.

9 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

10 g. All right, title and interest in the Subject Property that Defendants Rodger N. Kalkhoven,
11 Janet H. Kalkhoven had as of the date of the Deed of Trust or thereafter acquired is hereby
12 ordered to be sold by the Lane County Sheriff's Office in accordance with the process for
13 sale upon execution, and the proceeds of sale shall be applied:

14 1) First, to the costs of sale not incurred by Plaintiff;

15 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
16 entry of judgment through the date of the sale and any incurred costs of sale;

17 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
18 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
19 such party or parties as they may establish their right thereto.

20 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
21 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
22 the date of entry of judgment through the date of the sale and any incurred costs of sale.

23 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
24 Property from and after the date of the sale and is entitled to such remedies as are available at
25 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
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1 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
2 possession to the purchaser immediately upon the purchaser's demand for possession.

3 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
4 entitled to any further or other judgment, including a judgment for the deficiency.

5 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
6 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
7 terminated.

8 l. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
9 Trust are as follows:

10 1) Defendant CALVARY PORTFOLIO SERVICES, LLC, may claim a junior interest
11 in Subject Property by virtue of a judgment entered on 03/24/2011 in Case
12 No. 121015916 in the official records of Lane County, Oregon.

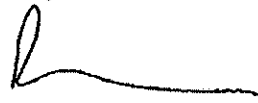
13 2) Defendant CAPITAL ONE BANK (USA), NATIONAL ASSOCIATION may claim
14 a junior interest in Subject Property by virtue of a judgment entered on 01/24/2012 in
15 Case No. 121122154 in the official records of Lane County, Oregon.

16 3) Defendant UNIFUND CCR PARTNERS may claim a junior interest in Subject
17 Property by virtue of a judgment entered on 12/24/2012 as Case No. 121220655 in
18 the official records of Lane County, Oregon.

1 4) Defendant MIDLAND FUNDING LLC may claim a junior interest in Subject
2 Property by virtue of a judgment entered on 03/01/2013 as Case No. 121226332 in
3 the official records of Lane County, Oregon.

4 5) Defendant MIDLAND FUNDING LLC may claim a junior interest in Subject
5 Property by virtue of a judgment entered on 04/14/2014 as Case No. 121402910 in
6 the official records of Lane County, Oregon.

Signed 4/18/2017 03:06 PM



R.Curtis Conover, Circuit Court Judge

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15 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

16 This proposed **General Judgment of Foreclosure** is ready for judicial signature because:

17 The relief sought is against an opposing party who has been found in default.

18
19 Presented by:
20 **McCarthy & Holthus, LLP**

21 s/ Bryan Kidder 4/12/2017
22 Bryan Kidder, OSB No. 140459
23 920 SW 3rd Ave, 1st Floor
24 Portland, OR 97204
25 Phone: (971) 201-3200
26 Fax: (971) 201-3202
27 bkidder@mccarthyholthus.com
28 Of Attorneys for Plaintiff

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LOT 7, BLOCK 3, MARYLHURST, A PLATTED AND RECORDED IN VOLUME 12, PAGE 27, LANE COUNTY OREGON PLAT RECORDS, IN LANE COUNTY, OREGON.