

RCVD DESCHUTES COUNTY SEP 17 09:55

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES**

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

ESTATE OF ROBERT MILLER, an Estate;
UNKNOWN HEIRS OF ROBERT MILLER,
individuals; STEPHEN C. MILLER, an
individual; KIMBERLY MARIE MILLER,
an individual; and all other persons, parties, or
occupants unknown claiming any legal or
equitable right, title, estate, lien, or interest in
the real property described in the complaint
herein, adverse to Plaintiff's title, or any cloud
on Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 15CV0129FC

WRIT OF EXECUTION IN FORECLOSURE



CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 04 day of 08, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY: Chelsea Bohn
COURT CLERK

TO: THE SHERIFF OF DESCHUTES COUNTY, OREGON:

1.

WHEREAS, on November 2, 2016, in the above-entitled Court, a General Judgment of Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property upon (subject to

1 redemption, if applicable), all of the interest which the Defendants ESTATE OF ROBERT MILLER,
2 UNKNOWN HEIRS OF ROBERT MILLER, STEPHEN C. MILLER, AND KIMBERLY MARIE
3 MILLER ("Defendants") had on December 22, 2008, the date of the foreclosed Deed of Trust which
4 was recorded on February 12, 2009, as Instrument No. 2009-06029 in the official records of the
5 Deschutes County Recorder's Office, and/or all of the interest which Defendants had thereafter, in
6 the real property described in the Judgment to satisfy the Judgment as follows:

7
8 **Lender's Principal Judgment:**

9 Unpaid Principal Balance:	-	\$149,594.51
10 Pre-Judgment Interest from September		
11 24, 2009 to June 2, 2015, the date set		
12 forth in the Judgment at 2.490%, per		
annum, (\$16.19 per diem):		\$23,670.63
Lender's Fees and Costs:		\$20,596.09
Attorney's Fees and Costs:		\$3,729.50

13 ***Total Judgment Entered:*** **\$197,590.73**

14 **Additional Pre-Judgment Interest:**

15 Accrued Interest from June 3, 2015, the		
16 day after the date set forth in the		
17 Judgment through November 2, 2016,		
the date of entry of the Judgment, at		
18 2.490%, per annum (\$16.19 per diem):		\$8,386.42

19 ***Total Judgment Entered Including***
20 ***Additional Pre-Judgment***

21 ***Interest:*** **\$205,977.15**

22 3.

23 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on **\$205,977.15** at
24 the legal rate of interest of 9% per annum, \$50.78 per diem, from November 3, 2016 to the date the
25 real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus
26 costs of this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

27 4.

28 The real property subject to this writ of execution is commonly known as 65250 73rd Street,
Bend , OR 97701 ("Property") and described in Exhibit "1" attached hereto.

1 5.

2 The Judgment Creditor's name and address is:

3 Bank of America, N.A.
4 c/o Reverse Mortgage Solutions, Inc.
5 8930 S. Beck Avenue, Suite 111
6 Tempe, Arizona 85284-2864

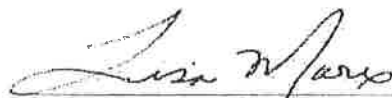
7 The Judgment Creditor's name and address for the purpose of this Writ is:

8 Bank of America, N.A.
9 c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
10 2112 Business Center Drive
11 Irvine, CA 92612
12 949-252-9400

13 THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and
14 sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy
15 the Judgment, interest, fees, and costs.

16 MAKE RETURN HEREOF within 60 days after you receive this Writ.

17 Signed: 7/6/2017 08:57 AM

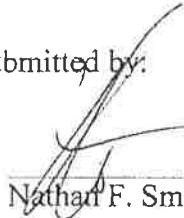
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20 **Administrative Analyst Lisa Marx**

21 for Jeff Hall, Trial Court Administrator



22 Submitted by:

23 
24 Nathan F. Smith, OSB #120112
25 Attorney for Plaintiff
26 MALCOLM ♦ CISNEROS, A Law Corporation
27 2112 Business Center Drive, Second Floor
28 Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

Dated: 6/29/17

EXHIBIT 1

LOT 11 IN BLOCK 15 OF WHISPERING PINES ESTATES, FIRST ADDITION, DESCHUTES COUNTY,
OREGON.

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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

ESTATE OF ROBERT MILLER, an Estate;
UNKNOWN HEIRS OF ROBERT MILLER,
individuals; STEPHEN C. MILLER, an
individual; KIMBERLY MARIE MILLER, an
individual; and all other persons, parties, or
occupants unknown claiming any legal or
equitable right, title, estate, lien, or interest in
the real property described in the complaint
herein, adverse to Plaintiff's title, or any cloud
on Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 15CV0129FC

GENERAL JUDGMENT OF
FORECLOSURE AGAINST:

1. ESTATE OF ROBERT MILLER
2. STEPHEN C. MILLER
3. KIMBERLY MARIE MILLER



CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 04 day of 08, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY: Chelsea Boffin
COURT CLERK

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, Bank of America, N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants ESTATE OF ROBERT MILLER, STEPHEN C. MILLER and KIMBERLY MARIE MILLER ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that the ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANTS ESTATE OF ROBERT MILLER, STEPHEN C. MILLER AND KIMBERLY MARIE MILLER has been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the

1 property commonly known as 65250 73rd Street, Bend, OR 97701 ("Property") and extinguishing
2 any and all interest of the Defendants in the Property.

3 2.

4 The Court being fully advised; it is hereby
5 ORDERED AND ADJUDGED that:

6 3.

7 Plaintiff is the holder of that certain promissory note ("Note"), dated December 22, 2008, in
8 the amount of \$345,000.00, and executed by Robert Miller ("Decedent Miller").

9 4.

10 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about
11 December 22, 2008, by Decedent Miller. The Deed of Trust was recorded on February 12, 2009
12 under the recording number 2009-06029 of the Official Records of Deschutes County, Oregon,
13 against the Property, which is legally described as:

14 **LOT 11 IN BLOCK 15 OF WHISPERING PINES ESTATES, FIRST ADDITION,**
15 **DESCHUTES COUNTY, OREGON.**

16 ("Property") and constitutes a valid lien against the Property.

17 5.

18 On or about September 24, 2009, Decedent Miller died. Based upon the death of Decedent
19 Miller, all amounts due and owing under the Note and Deed of Trust are now due and payable.

20 6.

21 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
22 interest, lien, or claim of the Defendants and any other party in the Property, which are hereby
23 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants
24 may be entitled under Oregon law.

25 7.

26 A judgment of foreclosure in the amount of \$197,590.73 shall be granted in favor of Plaintiff,
27 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
28 Not a Money Award ("Amount Owed").

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8.

The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be disbursed to such party or parties as may establish their right thereto.

9.

Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary costs and expenses incurred to enforcing the Note and Deed of Trust.

10.

Any increased interest or any such additional amounts as Plaintiff may advance for taxes, assessments, municipal charges, and such other items as may constitute liens on the Property, together with insurance and repairs necessary to prevent the impairment of the Property, together with interest thereon from the date of payment may also be added to the Amount Owed and paid from the proceeds from the sale of the Property.

11.

Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and every portion thereof, excepting only any statutory right of redemption provided by the laws of the State of Oregon.

12.

Decedent Miller is not entitled to a homestead exemption in the Property.

13.

Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

14.

The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate possession of the Property from and after the date of the sale, and is entitled to such remedies as are available at law to secure possession of the Property, and may apply to the Clerk of the Court for a writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender

1 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

2 15.

3 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
4 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
5 obtain possession of the Property.

6 16.

7 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
8 hereinafter described as the Amount Owed.

9 17.

10 This suit does not constitute an attempt to collect the debt against Defendants ESTATE OF
11 ROBERT MILLER, STEPHEN C. MILLER and KIMBERLY MARIE MILLER. Rather, it is a suit
12 to execute upon the Property as security for the Amount Owed.

13 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

- | | | |
|----|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14 | 1. Judgment Creditor: | Bank of America, N.A. |
| 15 | Address: | c/o MALCOLM ♦ CISNEROS,
A Law Corporation
2112 Business Center Drive, 2 nd Floor
Irvine, California 92612 |
| 16 | | |
| 17 | Judgment Attorney: | Nathan F. Smith |
| 18 | Address: | MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2 nd Floor
Irvine, California 92612 |
| 19 | Telephone Number: | (949) 252-9400 |
| 20 | 2. Persons or Public Bodies Entitled to
a Portion the Judgment: | N/A |
| 21 | 3. Judgment Amount: | \$193,861.23 |
| 22 | 4. Pre-Judgment Interest: | Simple interest to accrue on \$149,594.51 from
June 3, 2015 to the date the Judgment is entered
into the Court's register at 2.490% per annum,
\$16.19 per diem. |
| 23 | | |
| 24 | 5. Post-Judgment Interest: | Simple interest to accrue on \$197,590.73 plus
Pre-Judgment Interest from the day after the
General Judgment is entered to the date upon
which the Writ of Execution in Foreclosure is
levied at the legal rate of interest or 9% per
annum, whichever is greater. |
| 25 | | |
| 26 | | |
| 27 | | |
| 28 | 6. Periodic accrual: | N/A |

1 **7. Attorney's Fees and Costs:**

An award of \$3,729.50 in attorney's fees and costs is made.

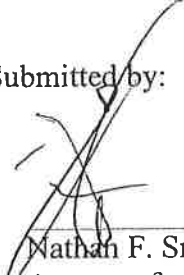
2 Attorney's Fees \$2,255.00
3 Filing Cost \$531.00
4 Recording Cost - Lis Pendens \$58.00
5 Process Service Cost \$445.00
6 Mediation Cost \$200.00
7 Investigation Cost \$240.50

Signed: 11/2/2016 01:30 PM

11 

12 **Circuit Court Judge Stephen P. Forte**

14 Submitted by:

15 

16 Dated: 10/27/16

17
18
19 Nathan F. Smith, OSB #120112
20 Attorney for Plaintiff
21 MALCOLM ♦ CISNEROS, A Law Corporation
22 2112 Business Center Drive, Second Floor
23 Irvine, California 92612
24 Phone: (949) 252-9400
25 Fax: (949) 252-1032
26 Email: nathan@mclaw.org
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