

RCUD DCSDCUL 06SEP17 17:13

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

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR NEW
CENTURY HOME EQUITY LOAN TRUST,
SERIES 2005-C, ASSET BACKED PASS-
THROUGH CERTIFICATES,

Plaintiff,

v.

JEREMY BERRY AKA JEREMY CLIFFORD
BERRY; ALICIA BERRY AKA ALICIA
MAE BERRY; AVANT CAPITAL LLC;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 17CV13562

WRIT OF EXECUTION IN
FORECLOSURE

TO THE DESCHUTES COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on June 8, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR NEW
CENTURY HOME EQUITY LOAN TRUST, SERIES 2005-C, ASSET BACKED PASS-
THROUGH CERTIFICATES

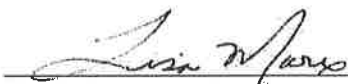

c/o Bryan Kidder
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$185,003.20, plus post judgment interest at the statutory rate
2 of 9.0% per annum from June 8, 2017 to August 8, 2017 in the amount of \$2,782.65, and
3 continuing with a per diem of \$45.62, currently totaling \$187,785.85.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about August 19, 2005, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: 140145 and
9 commonly known as: 16010 Buena Vista Drive, La Pine, OR 97739.

10 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
11 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
12 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
13 You are to make the return within 60 days after you receive this Writ. Should the sale be
14 continued, the writ may be automatically extended for 30 days.

Signed: 8/15/2017 02:31 PM

15
16 
17 **Administrative Analyst Lisa Marx**
18 for Jeff Hall, Trial Court Administrator 

19 Dated: August 4, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Bryan Kidder

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

EXHIBIT "1"

Lot 12, Block 5, Third Addition to Los Pinos Subdivision No. 220, recorded March 16, 1975, in Cabinet B, Page 102, Deschutes County, Oregon.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR NEW
CENTURY HOME EQUITY LOAN
TRUST, SERIES 2005-C, ASSET
BACKED PASS-THROUGH
CERTIFICATES,

Plaintiff,

v.

JEREMY BERRY AKA JEREMY
CLIFFORD BERRY; ALICIA BERRY
AKA ALICIA MAE BERRY; AVANT
CAPITAL LLC; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 17CV13562

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

All defendants ("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;

2.

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 Deschutes County, Oregon, and is commonly known as 16010 Buena Vista Drive, La Pine, OR 97739 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 140145.

1 b. Plaintiff is entitled to enforce the note dated August 19, 2005 and made, delivered, and
2 executed by JEREMY BERRY AKA JEREMY CLIFFORD BERRY and ALICIA BERRY
3 AKA ALICIA MAE BERRY to NEW CENTURY MORTGAGE CORPORATION in the
4 amount of \$113,600.00 (the "Note"). The Note was transferred to Plaintiff by delivery of
5 possession and by indorsement set forth on the Note.

6 c. A deed of trust was made, executed, and delivered by Defendants JEREMY BERRY AKA
7 JEREMY CLIFFORD BERRY and ALICIA BERRY AKA ALICIA MAE BERRY on or
8 about August 22, 2005 (the "Deed of Trust"). The Deed of Trust was recorded on August 26,
9 2005 as Instrument No. 2005-56933 in the official records of Deschutes County, Oregon.
10 The Deed of Trust is a valid and perfected lien against all of the Property for and securing the
11 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the
12 Defendants and shall remain in effect until issuance of a Sheriff's Deed.

13 d. The Borrower failed to make the payment that was due for July 1, 2010 and has not cured the
14 default. The amount of debt secured by the Deed of Trust that is now due and owing is
15 comprised of the following amounts (the "Amount Due"):

- | | | |
|----|---------------------------------------|---------------------|
| 16 | a) Unpaid principal balance: | \$107,426.46 |
| 17 | b) Prejudgment interest accruing from | |
| 18 | 6/1/2010 through 6/2/2017 and | |
| 19 | continuing until the entry of | |
| | judgment at the current Note rate of | |
| | 6.975%: | \$52,534.07 |
| 20 | c) Additional amounts due under the | \$21,199.88 |
| 21 | terms of the loan: | |
| 22 | d) Attorney fees and costs: | \$3,757.79 |
| 23 | e) Prevailing party fee (ORS 20.190 | \$85.00 |
| | (1)(b)): | |
| 24 | Total: | \$185,003.20 |

25 ///

26 ///

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

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

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

8 g. All right, title and interest in the Subject Property that Defendants JEREMY BERRY AKA
9 JEREMY CLIFFORD BERRY and ALICIA BERRY AKA ALICIA MAE BERRY had as of
10 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
11 Deschutes County Sheriff's Office in accordance with the process for sale upon execution,
12 and the proceeds of sale shall be applied:

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

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

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

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

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

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

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

6 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
7 Deed of Trust are as follows:

- 8 1) Defendant AVANT CAPITAL LLC may claim a junior interest in Subject Property
9 by virtue of a deed of trust and request for notice of default recorded 08/26/2005 as
10 Instrument No. 2005-56934 in the official records of Deschutes County, Oregon.

Signed: 6/7/2017 02:32 PM



15 Circuit Court Judge Walter R. Miller

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

17 This proposed Judgment of Foreclosure is ready for judicial signature because:

18 Each opposing party affected by this order or judgment has stipulated to the order or
19 judgment, as shown by each opposing party's signature on the document being
submitted.

20 Each opposing party affected by this order or judgment has approved the order or
21 judgment, as shown by signature on the document being submitted or by written
confirmation of approval sent to me.

22 I have served a copy of this order or judgment on all parties entitled to service and:

23 No objection has been served on me.

24 I received objections that I could not resolve with the opposing party despite
reasonable efforts to do so. I have filed a copy of the objections I received and
indicated which objections remain unresolved.

25 After conferring about objections, _____ agreed to independently file
26 any remaining objection.

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

1 An order of default is being requested with this proposed judgment.

2 Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
3 otherwise.

4 This is a proposed judgment that includes an award of punitive damages and notice
5 has been served on the Director of the Crime Victims' Assistance Section as required
6 by subsection (4) of this rule.

7 Other: _____

8 Dated: June 5, 2017 and submitted by:

9 **McCarthy & Holthus, LLP**

10 s/Olga Groat

11 Bryan Kidder, OSB No. 140459

12 Olga Groat, OSB No. 170174

13 920 SW 3rd Ave, 1st Floor

14 Portland, OR 97204

15 Phone: (971) 201-3200

16 Fax: (971) 201-3202

17 bkidder@mccarthyholthus.com

18 Of Attorneys for Plaintiff

EXHIBIT "1"

Lot 12, Block 5, Third Addition to Los Pinos Subdivision No. 220, recorded March 16, 1975, in Cabinet B, Page 102, Deschutes County, Oregon.