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AUG 25 2017

LINCOLN COUNTY SHERIFF'S OFFICE
NEWPORT, OR
mum

1 Craig Peterson, OSB #120365
2 Jaimie Fender, OSB #120832
3 Kimberly Hood, OSB #123008
4 Robinson Tait, P.S.
5 901 Fifth Avenue, Suite 400
6 Seattle, WA 98164
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CIRCUIT COURT OF OREGON FOR LINCOLN COUNTY

<p>THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS FHA QUALIFIED TRUSTEE FOR RESCAP NO. 16CV42167 LIQUIDATING TRUST,</p>	
<p>Plaintiff,</p> <p>v.</p>	<p>WRIT OF EXECUTION IN FORECLOSURE</p>
<p>DARBY MABE AKA DARBY MARTINEZ; JEREMY MABE; STATE OF OREGON, DIVISION OF CHILD SUPPORT; FIRST AMERICAN TITLE INSURANCE CO.; AND PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT HEREIN,</p>	
<p>Defendants.</p>	

TO: LINCOLN COUNTY SHERIFF

1. WHEREAS, on May 8, 2017, in the above-entitled court, a judgment of foreclosure was enrolled and docketed in the above-entitled cause, a true copy of which is attached hereto as **Exhibit "A"** and made a part hereof;

1
2 2. WHEREAS, pursuant to ORS 18.862, the Judgment Creditor's address is as follows:

3 The Bank of New York Mellon Trust Company, N.A., as FHA Qualified Trustee for
4 ResCap Liquidating Trust
5 c/o LoanCare
6 3637 Sentara Way
7 Virginia Beach, VA 23452

8
9 For the purpose of this Writ, the Judgment Creditor's address is as follows:

10 LoanCare
11 c/o Robinson Tait, P.S.
12 901 Fifth Avenue, Suite 400
13 Seattle, Washington 98164

14 3. WHEREAS, the real property to be sold pursuant to the above referenced judgment is
15 legally described as

16 LOT 3, BLOCK 7, CEDAR HEIGHTS PARK PHASE 3, IN THE CITY OF WALDPOR,
17 COUNTY OF LINCOLN AND STATE OF OREGON.

18 and commonly known as 445 Double Eagle, Waldport, OR 97394-8908.

19 4. NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are
20 hereby commanded to sell the above referenced real property, in the manner prescribed by law for the
21 sale of real property upon execution (subject to redemption), all of the interest which the defendant(s)
22 had on October 26, 2007, the date of the Deed of Trust, and also all of the interest which the
23 defendant(s) had thereafter, in the real property described in the judgment, to satisfy the judgment,
24 which as of May 25, 2017,

25 **Lenders Principal Judgment:**

26 1. Unpaid Principal Balance	<u>\$174,483.34</u>
27 2. Pre-Judgment Interest from 9/1/2009 to 3/1/2017, the date calculated by the Declarant in the Declaration in Support of Judgment	<u>\$85,060.80</u>
28 3. Lenders Fees and Costs	<u>\$60,977.68</u>

1
2 4. Attorney's Fees and Costs \$5,036.98
3 *Total Judgment Award Entered* \$325,558.80

4 Additional Pre Judgment Interest

5
6 1. Accrued Interest from 3/2/2017
7 to 5/8/2017 the date of entry
of Judgment \$2,112.76

8 *Total Judgment Award* \$327,671.56

9
10 Post Judgment Interest

11
12 1. Accrued Post Judgment Interest at a rate of 9% per annum or at \$80.80, from 5/9/2017,
13 the day after the entry of judgment, through 5/25/2017,
the date the writ is being requested \$1,373.60

14
15 *Current Total Amount Owing* \$ 329,045.16

16
17 In addition to the above, interest continues to accrue on the total of the amounts listed above
18 at the rate of 9% per annum or at \$80.80 per diem, in accordance with the General Judgment of
19 Foreclosure and continues to accrue until the date of sale.

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1
2 5. THEREFORE, in the name of the State of Oregon you are hereby commanded to seize
3 and sell the above described Property, in the manner prescribed by law; or so much thereof as may be
4 necessary to satisfy the Judgment and Money Award, interest, fees and costs.

5 MAKE RETURN HEREOF within 60 days after you receive this writ.

6
7 DATED this _____ day of _____, 2017.



St. Jull.

Signed: 5/30/2017 01:39 PM

14 Title **Circuit Court Clerk Steven Zalewski**

15 By: _____

16 Submitted by:

17 Craig Peterson, OSB #120365
18 Email: cpeterson@robinsontait.com
19 Jaimie Fender, OSB #120832
20 Email: jfender@robinsontait.com
21 Kimberly Hood, OSB #123008
22 Email: KHood@robinsontait.com
23 Michael Althouse, OSB #150793
24 Email: malthouse@robinsontait.com
25 Gregory Morphew, OSB #170214
26 Email: gmorphew@robinsontait.com
27 Robinson Tait, P.S.
28 Attorneys for Plaintiff
Tel: (206) 676-9640
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CIRCUIT COURT OF OREGON FOR LINCOLN COUNTY

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., AS FHA
QUALIFIED TRUSTEE FOR RESCAP
LIQUIDATING TRUST,

Plaintiff,

v.

DARBY MABE AKA DARBY MARTINEZ;
JEREMY MABE; STATE OF OREGON,
DIVISION OF CHILD SUPPORT; FIRST
AMERICAN TITLE INSURANCE CO.; AND
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE, LIEN, OR
INTEREST IN THE PROPERTY
DESCRIBED IN THE COMPLAINT
HEREIN,

Defendants.

NO. 16CV42167

GENERAL JUDGMENT DETERMINING
AMOUNT OWED AND FORECLOSURE

(Clerk's Action Required)

THIS MATTER having come on for hearing this day before the undersigned Judge of the
above entitled court upon the motion of the plaintiff for judgment and foreclosure herein, the
plaintiff, THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS FHA QUALIFIED
TRUSTEE FOR RESCAP LIQUIDATING TRUST, appearing and being represented by CRAIG
PETERSON, Attorney of Robinson Tait, and after considering the pleadings and affidavits on file
herein, findings of fact and conclusion of law being unnecessary under Civil Rule 69D, the court
finds that the allegations contained in the plaintiff's Complaint are true, that there are no material

GENERAL JUDGMENT DETERMINING
AMOUNT OWED AND FORECLOSURE - 1
60153 00160-JL D-CR(171571)

in Office
ROBINSON TAIT, P.S.

800 Hill Avenue, Suite 100
Astoria, OR 97103
503.325.2046
FAX 503.325.2046

1 issues of fact, that the plaintiff is entitled to judgment as a matter of law, and that the judgment
2 should be entered in favor of the plaintiff forthwith as more particularly hereafter set forth. Therefore,
3

4 IT IS HEREBY ORDERED AND ADJUDGED THAT:

5 1. Plaintiff, THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS FHA
6 QUALIFIED TRUSTEE FOR RESCAP LIQUIDATING TRUST be awarded judgment in the sum of
7 \$174,483.34, together with interest at a rate as provided in the Note from September 1, 2009 through
8 March 1, 2017 in the amount of \$85,060.80 with additional pre-judgment interest at the per diem rate of
9 \$31.07 as provided in the Note to the date of entry of judgment; plus reasonable attorneys' fees in the
10 amount of \$2,600.00, plus other recoverable amounts of \$60,977.68 which includes the amounts
11 itemized in the declaration of the lender in support of motion for judgment plus allowable costs of
12 \$2,436.98 as itemized in the bill of disbursements and an additional amount for post-judgment sheriff's
13 fees. Said judgment to bear interest until paid at the statutory rate or at the contract rate, whichever is
14 greater; and.
15
16

17 2. Plaintiff's Deed of Trust on real property in Lincoln County, Oregon, legally
18 described as follows:
19

20 LOT 3, BLOCK 7, CEDAR HEIGHTS PARK PHASE 3, IN THE CITY OF
21 WALDPOR, COUNTY OF LINCOLN AND STATE OF OREGON.

22 which was recorded on November 6, 2007, under Auditor's File No. 200715643, records of Lincoln
23 County, Oregon, be adjudged and decreed to be a first and paramount lien upon the above described
24 real estate and the whole thereof as security for the payment of the judgment herein set forth, and that
25 said Deed of Trust be foreclosed and the property therein described is hereby ordered sold by the
26 Sheriff of Lincoln County in the manner provided for by law, and the proceeds therefrom shall be
27 applied to the payment of the judgment, interest, attorneys' fees and costs, and such other sums as
28

GENERAL JUDGMENT DETERMINING
AMOUNT OWED AND FORECLOSURE - 2
00153-00160-JUD-OR1715711

Attest:
ROBINSON TAIT, P.S.

ALLIANCE COURT REPORTERS & VIDEO, INC.
1000 N. W. 10th St.
Fort Lauderdale, FL 33304
954.577.0000

1 plaintiff has advanced prior to judgment, and that such sums shall constitute a first and specific lien
2 and charge upon said real estate, prior and superior to any right, title, estate, lien or interest of the
3 defendant and of any one claiming by, through or under them; and
4

5 3. Any and all persons acquiring any right, title, estate, lien or interest in or to the
6 property described above or any part thereof subsequent to October 26, 2007, the date of the Deed of
7 Trust which is foreclosed herein, be forever barred and estopped from claiming or asserting any right,
8 title, lien or interest in or to said property or any part thereof, save and except for the right of
9 redemption as allowed by law; and
10

11 4. Plaintiff be granted the right to become a bidder and purchaser at the sale and the
12 purchaser shall be entitled to exclusive possession of the property upon completion of sale according to
13 law, and to all right, title and interest in any rents and profits generated or arising from the property
14 during the statutory redemption period; and plaintiff is entitled to such remedies as are available at law to
15 secure possession, including writ of assistance, if defendants or any of them or any other party or person
16 shall refuse to surrender possession to the purchaser immediately upon purchaser's demand for
17 possession; and
18

19 5. Pursuant to ORS 18.950, if any proceeds from the execution sale remain after the
20 payment of costs under ORS 18.950(3) and satisfaction of the judgment, the court administrator shall
21 pay the remaining proceeds as directed by the court in the order of distribution.
22
23
24

25 **DECLARATION DETERMINING AMOUNT OF DEBT**
26 *(Not a Money Award, see ORS 18.862, 86.797, and 88.010)*

27 Judgment Creditor:

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., AS FHA

1
2 QUALIFIED TRUSTEE FOR RESCAP
LIQUIDATING TRUST
3 c/o Robinson Tait, P.S.
4 901 Fifth Avenue, Suite 400
5 Seattle, WA 98164
(206) 676-9640

6 Attorney for Judgment Creditor: Craig Peterson
7 Robinson Tait, P.S.
8 901 Fifth Avenue, Suite 400
9 Seattle, WA 98164
(206) 676-9640

10 The name of any person or public body,
11 other than the Judgment Creditor's
12 Attorney, who is entitled to any
13 portion of the judgment: N/A

14 Principal Balance: \$174,483.34

15 Simple Interest on the Principal Balance
16 from September 1, 2009 to March 1, 2017: \$85,060.80

17 Other Amounts Due Under Terms of Loan: \$60,977.68

18 Attorneys' Fees and Costs:
19 Attorneys' Fee: \$2,600.00
20 Total Costs: \$2,436.98

21 Total Attorney Fees and Costs: \$5,036.98

22 *TOTAL DEBT OWED* \$352,558.80

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1
2 Pre-Judgment: Additional pre-judgment interest accrues from March 2, 2017, to the date of
entry of judgment at the per diem rate of \$31.07, in accordance with the Note

3
4 Post-Judgment: Interest Accrues on the total of the amounts listed above in accordance with
the contract rate in the Note, or at the statutory rate of 9% per annum, whichever is greater.

5 DONE IN COURT this ____ day of _____, 2017.
6
7
8

Signed: 5/8/2017 03:21 PM



Circuit Court Judge David V. Cramer

9
10
11 Submitted by:



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13
14 Craig Peterson, OSB #120365
15 Email: cpeterson@robinsontait.com
16 Jaimie Fender, OSB #120832
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22 Gregory Morpew, OSB #170214
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26 Tel: (206) 676-9640
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28

GENERAL JUDGMENT DETERMINING
AMOUNT OWED AND FORECLOSURE - 5
60453-00460-JUD-OR1715711

Law Office
ROBINSON TAIT, P.S.

200 Fifth Avenue, Suite 100
Seattle WA 98104
(206) 676-9640


CERTIFICATE OF READINESS- UTCR 5.100

This proposed order or judgment is ready for judicial signature because:

1. Each opposing party affected by this order or judgment has stipulated to or approved its terms, as shown by each party's signature on the proposed order or judgment being submitted.
2. Each opposing party affected by this order has approved the form of the document, as shown by written communication to me.
3. I have served a copy on all parties entitled to service and:
 - No objection has been served on me within that time frame.
 - I received objections that I could not resolve with the objecting party despite reasonable efforts to do so. I have filed with the court a copy of the objections I received and indicated which objections remain unresolved.
 - After conferring about objections [role and name of opposing party] agreed to independently file any remaining objection.
4. The relief sought is against a party who has been found in default.
5. An order of default is being requested with this proposed judgment.
6. Service is not required pursuant to subsection (1)(c) of UTCR 5.100, or by statute, rule, or otherwise.
7. This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (1)(d) of UTCR 5.100.

Date:

5-5-17


Attorney, OSB

120365