

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 KLAMATH

OCWEN LOAN SERVICING, LLC,

Plaintiff,

v.

JONATHAN M. COBB; UNITED STATES  
OF AMERICA; PORTFOLIO RECOVERY  
ASSOCIATES, LLC.; OCCUPANTS OF THE  
PROPERTY

Defendants.

Case No.: 15CV23081

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE KLAMATH COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on April 20, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

OCWEN LOAN SERVICING, LLC

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

With the adjudicated amount due of \$90,979.06, plus post judgment interest at the statutory rate of 9.0% per annum from April 20, 2017 to June 13, 2017 in the amount of \$1,211.39, and continuing with a per diem of \$22.43, currently totaling \$92,190.45.

**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 on

1 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
2 about May 8, 2009, the date of the Deed of Trust, and also the interest that the Defendant had  
3 thereafter, in the real property described in the attached Exhibit 1, APN/Parcel No. R481829,  
4 M889278 and commonly known as 2530 Orchard Ave., Klamath Falls, OR 97601.

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

June 19, 2017



John M. Powell  
by Marcela Flores

10  
11  
12  
13  
14 Dated: June 13, 2017 and submitted by:

15 **McCarthy & Holthus, LLP**

16 s/ Bryan Kidder

17 Bryan Kidder, OSB No. 140459

18 920 SW 3rd Ave, 1st Floor

19 Portland, OR 97204

20 Phone: (971) 201-3200

21 Fax: (971) 201-3202

22 [bkidder@mccarthyholthus.com](mailto:bkidder@mccarthyholthus.com)

23 Of Attorneys for Plaintiff  
24  
25  
26  
27  
28

# Exhibit 1

Lot 18, Block 125, MILLS ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk, Klamath 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 KLAMATH

OCWEN LOAN SERVICING, LLC,

Plaintiff,

v.

JONATHAN M. COBB; UNITED STATES  
OF AMERICA; PORTFOLIO RECOVERY  
ASSOCIATES, LLC.; OCCUPANTS OF THE  
PROPERTY

Defendants.

Case No.: 15CV23081

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 Klamath County, Oregon, and is commonly known as 2530 Orchard Ave., Klamath Falls, OR 97601 (the

1 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having  
2 APN/Parcel No. R481829, M889278.

3 b. Plaintiff is entitled to enforce the note dated 5/8/2009 and made, delivered, and executed by  
4 JONATHAN M. COBB to GOLF SAVINGS BANK, A WASHINGTON STOCK SAVINGS  
5 BANK in the amount of \$81,496.00 (the "Note"). The Note was transferred to Plaintiff by  
6 delivery of possession and by indorsement set forth on the Note.

7 c. A deed of trust was made, executed, and delivered by Defendant JONATHAN M. COBB on  
8 or about 5/8/2009 (the "Deed of Trust"). The Deed of Trust was recorded on 5/13/2009 as  
9 Instrument No. 2009-006758 in the official records of Klamath County, Oregon. The Deed  
10 of Trust is a valid and perfected lien against all of the Property for and securing the Amount  
11 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and  
12 shall remain in effect until issuance of a Sheriff's Deed.

13 d. The Borrower failed to make the payment that was due for 4/1/2014 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:	\$71,265.83
17	b) Prejudgment interest accruing from	
18	3/1/2014 though 4/10/2017 and	
19	continuing until the entry of judgment	
	at the current Note rate of 3.75%:	\$8,307.08
20	c) Additional amounts due under the	\$8,653.97
21	terms of the loan:	
22	d) Attorney fees and costs:	\$2,667.18
23	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(b)):	
24	<b>Total:</b>	<b>\$90,979.06</b>

25  
26  
27  
28

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. Pursuant to 38 U.S.C. § 3720 (d), because the United States' lien is subordinate to the  
8 Plaintiff's lien and is guaranteed/insured by the FHA, the federal government does not have a  
9 28 U.S.C. § 2410(c) one-year redemption right in this case.

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

11 h. All right, title and interest in the Subject Property that Defendant JONATHAN M. COBB  
12 had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by  
13 the Klamath County Sheriff's Office in accordance with the process for sale upon execution,  
14 and the proceeds of sale shall be applied:

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

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

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

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

24 j. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
25 Property from and after the date of the sale and is entitled to such remedies as are available at  
26 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
27

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

writ of assistance if any Defendant, other party, or other person shall refuse to surrender possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

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

1) Defendant UNITED STATES OF AMERICA may claim a junior interest in Subject Property by virtue of a deed of trust/ recorded on 04/26/2013 as Instrument No. 2013-009714 in the official records of Klamath County, Oregon.

2) Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC may claim a junior interest in Subject Property by virtue of a judgment entered on 12/16/2013 as Case No. 1303229CV in the official records of Klamath County, Oregon.

3) Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC may claim a junior interest in Subject Property by virtue of a judgment entered on 12/18/2013 as Case No. 1303228CV in the official records of Klamath County, Oregon.

Signed: 4/20/2017 01:26 PM



**Circuit Court Judge Marci W. Adkisson**

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

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



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

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

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

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

- No objection has been served on me.
- 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.
- After conferring about objections, \_\_\_\_\_ agreed to independently file any remaining objection.

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

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

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

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 (4) of this rule.

Other: \_\_\_\_\_

**DATED:** April 19, 2017

Presented by:

**McCarthy & Holthus, LLP**

s/ Olga Groat

---

Jeremy Clifford, OSB No. 142987  
 Olga Groat, OSB No. 170174  
 920 SW 3rd Ave, 1st Floor  
 Portland, OR 97204  
 Phone: (971) 201-3200  
 Fax: (971) 201-3202  
 jclifford@mccarthyholthus.com  
 Of Attorneys for Plaintiff

# Exhibit 1

**Lot 18, Block 125, MILLS ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.**