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LINN COUNTY
SHERIFFS OFFICE

Verified Correct Copy of Original 8/18/2017

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

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

Plaintiff,

v.

ERION G. BARTON AKA ERION BARTON
AKA ERION GAYLE BARTON; STATE OF
OREGON; CENTRAL WILLAMETTE
COMMUNITY CREDIT UNION; CAPITAL
ONE BANK (USA), N.A.; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 16CV39725

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LINN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on June 2, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

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

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

16CV39725
WREX
Writ - Execution
7814580



1 With the adjudicated amount due of \$129,349.86, plus post-judgment interest at the statutory rate
2 of 9.0% per annum from June 2, 2017 to August 23, 2017 in the amount of \$2,615.35, and
3 continuing with a per diem of \$31.89, currently totaling \$131,965.21.

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 September 7, 2007, the date of the Deed of Trust, and also the interest that the Defendant
8 had thereafter, in the real property described as follows:

9 *See attached Exhibit 1* and commonly known as: 1811 Salem Avenue SE, Albany,
10 OR 97321.

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

Signed: 8/18/2017 03:27 PM


Elizabeth Fistel, Administrative Authority

19 DATED: August 17, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

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

LOT 6, BLOCK 14, WOODLE'S RIVERSIDE ADDITION TO ALBANY, LINN COUNTY, OREGON.

Verified Correct Copy of Original 8/18/2017

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

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

Plaintiff,

vs.

ERION G. BARTON AKA ERION BARTON AKA ERION GAYLE BARTON; STATE OF OREGON; CENTRAL WILLAMETTE COMMUNITY CREDIT UNION; CAPITAL ONE BANK (USA), N.A.; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV39725

GENERAL JUDGMENT OF FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants ERION G. BARTON AKA ERION BARTON AKA ERION GAYLE BARTON, STATE OF OREGON, CENTRAL WILLAMETTE COMMUNITY CREDIT UNION, CAPITAL ONE BANK (USA), N.A., and 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;

2.

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

1 a. The real property to which this judgment relates is located and situated in Linn County,
2 Oregon, and is commonly known as 1811 Salem Avenue SE, Albany, OR 97321 (the
3 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
4 APN/Parcel No. 77228.

5 b. Plaintiff is entitled to enforce the note dated 9/7/2007 and made, delivered, and executed by
6 Erion G. Barton to First Horizon Home Loans, A Division of First Tennessee Bank N.A. in
7 the amount of \$116,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of
8 possession and by indorsement set forth on the Note.

9 c. A deed of trust was made, executed, and delivered by Defendant Erion G. Barton on or about
10 9/7/2007 (the "Deed of Trust"). The Deed of Trust was recorded on 9/12/2007 as Instrument
11 No. 2007-21836 in the official records of Linn County, Oregon. The Deed of Trust is a valid
12 and perfected lien against all of the Property for and securing the Amount Due. The lien of
13 the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in
14 effect until issuance of a Sheriff's Deed.

15 d. The Borrower failed to make the payment that was due for 9/1/2015 and has not cured the
16 default. The amount of debt secured by the Deed of Trust that is now due and owing is
17 comprised of the following amounts (the "Amount Due"):

18	a) Unpaid principal balance:	\$ 111,619.42
19	b) Prejudgment interest accruing from	\$ 9,230.30
20	8/1/2015 through 6/2/2017 and	
21	continuing until the entry of judgment	
	at the current Note rate of 4.5%:	
22	c) Additional amounts due under the	\$ 4,236.82
23	terms of the loan:	
24	d) Attorney fees and costs:	\$ 4,178.32
25	e) Prevailing party fee (ORS 20.190	\$ 85.00
	(1)(b)):	
26	TOTAL:	\$ 129,349.86

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

- e. The interest of the Defendants and any successor in interest in the Subject Property is foreclosed and terminated excepting only any statutory right of redemption as provided by Oregon law.
- f. The Defendant is not entitled to a homestead exception as against Plaintiff's judgment.
- g. All right, title and interest in the Subject Property that Defendant Erion G Barton had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Linn County Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of sale shall be applied:
 - 1) First, to the costs of sale not incurred by Plaintiff;
 - 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of entry of judgment through the date of the sale and any incurred costs of sale;
 - 3) Third, the surplus, if any, to the Defendants in the priority as their interest may appear, described *infra*, or to the clerk of the court to be distributed by the Court to such party or parties as they may establish their right thereto.
- h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from the date of entry of judgment through the date of the sale and any incurred costs of sale.
- i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject Property from and after the date of the sale and is entitled to such remedies as are available at law or in equity to secure possession. The purchaser at the sale may apply to the Court for a 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.

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 88.050, the apparent priority of liens subsequent and inferior to the Deed of
7 Trust are as follows:

8
9 1) Defendant CENTRAL WILLAMETTE COMMUNITY CREDIT UNION may claim
10 a junior interest in Subject Property by virtue of a deed of trust recorded on 9/25/2007
11 as Instrument No. 2007-22838 in the official records of Linn County, Oregon.

12 2) Defendant CAPITAL ONE BANK N.A. may also claim a junior interest in Subject
13 Property by virtue of a judgment entered on 11/6/2015 as Case No. 15CV30235 in the
14 Circuit Court of Linn County, Oregon.

15 3) Defendant CAPITAL ONE BANK N.A. may claim a junior interest in Subject
16 Property by virtue of a judgment entered on 12/7/2015 as Case No. 15CV32704 in the
17 Circuit Court of Linn County, Oregon.

18 4) Defendant STATE OF OREGON may claim a junior interest in Subject Property by
19 virtue of a judgment entered on 8/12/2016 as Case No. 16CR50368 in the Circuit
20 Court of Linn County, Oregon.

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5) Defendant **CENRAL WILLAMETTE COMMNTY CREDIT UN** may also claim a junior interest in Subject Property by virtue of a judgment entered on 10/31/2016 as Case N 16C30801 in the Circuit Court of Linn County, Oregon.

Signed: 8/2/2017 11:58 AM



Circuit Court Judge, Thomas A. McHill

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

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

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 to me.

I have served a copy of this order or judgment on all parties entitled 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, I 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 b) of this rule, or by statute, rule, or otherwise.

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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: _____

Presented by:
McCarthy & Holthus, LLP

s/Olga Groat 6/2/17

Robert B. Hakari, OSB No. 114082

Olga Groat, OSB No. 170174

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Of Attorneys for Plaintiff

LOT 6, BLOCK 14, WOODLE'S RIVERSIDE ADDITION TO ALBANY, LINN COUNTY, OREGON.