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Trial Court Admin.

Robert 6/29/17

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2017 SEP -1 PM 3:03

LINN COUNTY
SHERIFFS OFFICE

Verified Correct Copy of Original 5/12/2017

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

U.S. BANK NATIONAL ASSOCIATION,

CASE NUMBER: 15CV18972

Plaintiff,

WRIT OF EXECUTION IN
FORECLOSURE

vs.

THE ESTATE OF JOHN E. WILKINS, JR.,
DECEASED; UNKNOWN HEIRS AND
DEVISEES OF JOHN E. WILKINS, JR.,
DECEASED, AND PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, LIEN, OR INTEREST IN
THE PROPERTY DESCRIBED IN THE
COMPLAINT HEREIN,

Defendants.

TO: THE SHERIFF OF LINN COUNTY, OREGON:

1.

WHEREAS, on May 8, 2017, 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 redemption, if applicable), all of the interest which the Defendants THE ESTATE OF JOHN E. WILKINS, JR, UNKNOWN HEIRS AND DEVISEES OF JOHN E. WILKINS, JR., and PERSONS OR PARTIES UNKNOWN ("Defendants") had on January 22, 2013, the date of the foreclosed

1 Deed of Trust which was recorded on January 28, 2013, as Instrument No. 2013-01420 in the
 2 official records of the Linn County Recorder's Office, and/or all of the interest which Defendants
 3 had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

4 **Lender's Principal Judgment:**

5 Unpaid Principal Balance:	\$355,253.95
6 Pre-Judgment Interest from March 1, 2014, to April 30, 2017, at 3.5% (\$34.07 per diem):	\$39,379.49
7 Lender's Fees and Costs:	\$10,127.90
8 Attorney's Fees and Costs	\$1,216.00
9 Total Judgment Entered:	\$405,977.34

11 **Additional Pre-Judgment Interest:**

12 Accrued Interest from May 1, 2017, the day after the date set forth in the 13 Judgment through May 8, 2017, the date of entry of the Judgment, at 3.5% per 14 annum (\$34.07 per diem):	\$238.79
15 Total Judgment Entered Including Additional Pre-Judgment 16 Interest:	\$406,215.83

17 3.

18 Additionally, Plaintiff is entitled to the continued accrual of post-judgment interest at the
 19 legal rate of interest of 9% per annum \$100.16 per diem, from May 9, 2017, to the date the real
 20 property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of
 21 this writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

22 4.

23 The real property subject to this writ of execution is commonly known as 40694 McDowell
 24 Creek Drive, Lebanon, OR 97355 ("Property") and described in Exhibit "1" attached hereto.

25 5.

26 The Judgment Creditor's name and address is:
 27 U.S. Bank National Association

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4801 Frederica Street

Owensboro, Kentucky 42301-7441

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

U.S. Bank National Association

c/o Malcolm & Cisneros, ALC (Attention: Jennifer Yoon)

2112 Business Center Drive

Irvine, CA 92612

949-252-9400

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

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



Signed: 5/12/2017 03:59 PM

Cynthia Mitchell

Cynthia Mitchell, Administrative Authority

Submitted by:

Douglas A. Kincaid

Douglas A. Kincaid, OSB #121032

Attorney for Plaintiff

MALCOLM ♦ CISNEROS, A Law Corporation

2112 Business Center Drive, Second Floor

Irvine, California 92612

Phone: (949) 252-9400

Fax: (949) 252-1032

Email: dkincaid@mclaw.org

Dated: May 12, 2017

Exhibit "1"

Verified Correct Copy of Original 5/12/2017

LEGAL DESCRIPTION

The East 208.75 feet of the Northeast quarter of Section 11, Township 13 South, Range 1 West of the Willamette Meridian, in Linn County, Oregon.

EXCEPTING AND RESERVING therefrom the existing roadway of 20 feet in width fronting from the County Road to the property of W. Arthur Bates et ux, as set forth in deed recorded in Book 321, Page 808, Deed Records, Linn County, Oregon.



I hereby certify this copy to be a true, full, and exact copy of the original now on file in my office.
Trial Court Admin.

K. DeBart 6/29/17

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

U.S. BANK NATIONAL ASSOCIATION,

CASE NUMBER: 15CV18972

Plaintiff,
vs.

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST DEFENDANTS**

THE ESTATE OF JOHN E. WILKINS, JR.,
DECEASED; UNKNOWN HEIRS AND
DEVEISEES OF JOHN E. WILKINS, JR.,
DECEASED, AND PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, LIEN, OR INTEREST IN
THE PROPERTY DESCRIBED IN THE
COMPLAINT HEREIN,

Defendants.

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, U.S. BANK NATIONAL ASSOCIATION ("Plaintiff"), filed its Foreclosure Complaint; that Defendants were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that an ORDER OF DEFAULT 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 property commonly known as 40694 McDowell Creek Drive, Lebanon, OR 97355 ("Property") and extinguishing any and all interest of the Defendants in the Property.

2.

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

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3.

Plaintiff is the holder of that certain promissory note ("Note"), dated January 22, 2013, in the amount of \$362,808.00, and executed by JOHN E. WILKINS, JR..

4.

The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about January 22, 2013, by JOHN E. WILKINS, JR.. The Deed of Trust was recorded on January 28, 2013, under the recording number 2013-01420 of the Official Records of Linn County, Oregon, against the Property, which is legally described in Exhibit "1" attached hereto ("Property") and constitutes a valid lien against the Property.

5.

JOHN E. WILKINS, JR., failed to comply with the terms of the Note and Deed of Trust by failing to make the payments required by the terms of the Note and Deed of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff declared all sums due and owing under the Note and Deed of Trust immediately due and payable.

6.

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

7.

A judgment of foreclosure in the amount of \$405,977.34 shall be granted in favor of Plaintiff, and its successors and/or assigns, as further described below in the Declaration of Amount Owed – Not a Money Award ("Amount Owed").

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.

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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.

Defendant ESTATE OF JOHN E. WILKINS, JR., 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.

Defendant ESTATE OF JOHN E. WILKINS, JR., 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 Defendant, or any other party or person shall refuse to surrender possession of the Property to the purchaser immediately on the purchaser's demand for possession.

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15.

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

16.

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

17.

This suit does not constitute an attempt to collect the debt against ESTATE OF JOHN E. WILKINS, JR. Rather, it is a suit to execute upon the Property as security for the Amount Owed.

DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

- 1. Judgment Creditor:** U.S. BANK NATIONAL ASSOCIATION
- Address:** c/o MALCOLM ♦ CISNEROS, ALC
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Judgment Attorney:** Douglas A. Kincaid
- Address:** MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Telephone Number:** (949) 252-9400
- 2. Persons or Public Bodies Entitled to a Portion the Judgment:** N/A
- 3. Judgment Amount (exclusive of future interest, attorney fees and costs):** \$404,761.34

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4. Pre-Judgment Interest:

Simple interest to accrue on \$355,253.95 from April 30, 2017, to the date the Judgment is entered into the Court's register at 3.5% per annum, \$34.07 per diem.

5. Post-Judgment Interest:

Simple interest to accrue on \$405,977.34 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.

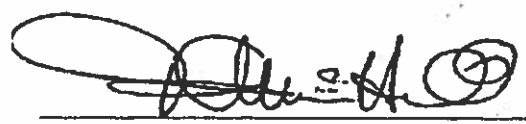
6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

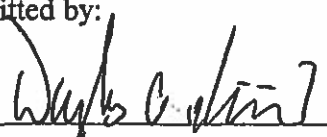
An award of \$1,216.00 in attorney's fees and costs is made.

Signed: 5/4/2017 08:40 AM



Circuit Court Judge, Thomas A. McHill

Submitted by:



Dated: May 2, 2017

Douglas A. Kincaid, OSB #121032
Attorneys for Plaintiff
MALCOLM ♦ CISNEROS, ALC
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: dkincaid@mclaw.org

Exhibit “1”

LEGAL DESCRIPTION

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