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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

JAMES B. MCBETH AKA JAMES BRIAN
MCBETH; CHRISTY MCBETH AKA
CHRISTY MICHELLE MCBETH; FIRST
HORIZON HOME LOANS, A DIVISION OF
FIRST TENNESSEE BANK N.A.;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV31970

WRIT OF EXECUTION IN
FORECLOSURE

TO THE LANE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on May 10, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION
TRUST
c/o Bryan Kidder
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

EXHIBIT 1

Lot 68, A. C. BOHRNSTEDT COMPANY FRUIT LANDS, as platted and recorded in Volume 4, page 26, Lane County Oregon Plat Records, in Lane County, Oregon.

EXCEPTING THEREFROM:

A parcel of land located in Lane County, Oregon Section 11, Township 19 South, Range 3 West, Willamette Meridian, as follows:

Beginning at the Southeasterly corner of Lot 68 of the A.C. BOHRNSTEDT COMPANY FRUIT LAND, as platted and recorded in Book 4, Page 26 of the Lane County Oregon Plat Records; thence North 504 feet, more or less, along the Easterly line of said Lot 68 to the Northeasterly corner of said Lot 68; thence West 115 feet, more or less, along the Northerly line of said Lot 68; thence South 06° 00' East 507 feet, more or less, to the Southerly line of the aforementioned Lot 68; thence East 62 feet, more or less, along the Southerly line of said Lot 68 to the point of beginning, in Lane County, Oregon.

TOGETHER WITH that portion of vacated East Martin Lane adjoining that would attach thereto by Order No. 93-9-15-13, recorded September 16, 1993, Document No. 93-58929, Official Records of Lane County, Oregon.

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

v.

JAMES B. MCBETH AKA JAMES BRIAN
MCBETH; CHRISTY MCBETH AKA
CHRISTY MICHELLE MCBETH; FIRST
HORIZON HOME LOANS, A DIVISION OF
FIRST TENNESSEE BANK N.A.;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV31970

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. Defendants FIRST HORIZON HOME LOANS, A DIVISION OF FIRST TENNESSEE BANK 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;
- b. A Stipulated Settlement has been entered with regard to Defendants JAMES B. MCBETH AKA JAMES BRIAN MCBETH and CHRISTY MCBETH AKA CHRISTY MICHELLE MCBETH ("Stipulating Defendants") (collectively Defaulted and Stipulating Defendants are referred to as "Defendants");

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 Lane County, Oregon, and is commonly known as 33938 Martin Rd., Creswell, OR 97426 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 0830990.
- b. Plaintiff is entitled to enforce the note dated 7/30/2007 and made, delivered, and executed by Defendants James B. McBeth and Christy McBeth to Suntrust Mortgage, Inc. in the amount of \$417,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendants James B. McBeth and Christy McBeth on or about 7/31/2007 (the "Deed of Trust"). The Deed of Trust was recorded on 8/6/2007 as Instrument No. 2007-054855 in the official records of Lane County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for 6/1/2012 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$417,000.00
- b) Prejudgment interest accruing from 5/1/2012 through 4/28/2017 and continuing until the entry of judgment at the current Note rate of 6.500%: \$135,178.43
- c) Additional amounts due under the terms of the loan: \$53,086.69
- d) Attorney fees and costs: \$4,050.34

| | |
|---|---------------------|
| e) Prevailing party fee (ORS 20.190 (1)(b)): | \$85.00 |
| Total: | \$609,400.46 |

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 Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- g. All right, title and interest in the Subject Property that Defendants James B. McBeth and Christy McBeth had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Lane 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

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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.

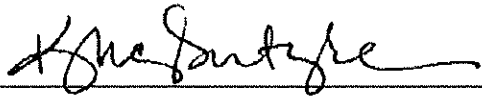
j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be entitled to any further or other judgment, including a judgment for the deficiency.

k. 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.

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

- 1) Defendant FIRST HORIZON HOME LOANS, A DIVISION OF FIRST TENNESSEE BANK N.A. may claim a junior interest in Subject Property by virtue of a deed of trust recorded 11/01/2007 as Instrument No. 2007-074625 in the official records of Lane County, Oregon, securing a promissory note in the amount of \$250,000.00.

Signed: 5/9/2017 04:15 PM



Karrie K. McIntyre, Circuit Court Judge

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

On April 28, 2017, a copy of the proposed General Judgment of Foreclosure was:

Accompanied by a stipulation by Opposing Attorney: Kent Anderson and Firm: Kent Anderson Law Office that no objection exists as to the judgment or order.

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

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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: _____

Presented by:

McCarthy & Holthus, LLP

s/Olga Groat 4/28/17

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

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