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CIRCUIT COURT, LANE CO.

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF HENRY E GODEGAST, an
estate; LINDA TUCKS, an heir; KARLA
RHOADS, an heir; SANDRA SAGE, an heir;
DOROTHY HAGMIER, an heir; RICHARD
GODEGAST, an individual; and all other
persons, parties, or occupants unknown
claiming any legal or equitable right, title,
estate, lien, or interest in the real property
described in the complaint herein, adverse to
Plaintiff's title, or any cloud on Plaintiff's title
to the Property.

Defendants.

CASE NUMBER: 16CV30086

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF LANE COUNTY, OREGON:

1.

WHEREAS, on June 12, 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

1 redemption, if applicable), all of the interest which the Defendants ESTATE OF HENRY E
2 GODEGAST, LINDA TUCKS, KARLA RHOADS, SANDRA SAGE, DOROTHY HAGMIER,
3 AND RICHARD GODEGAST ("Defendants") had on May 18, 2007, the date of the foreclosed
4 Deed of Trust which was recorded on May 23, 2007, as Instrument No. 2007-034727 in the official
5 records of the Lane County Recorder's Office, and/or all of the interest which Defendants had
6 thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

7

8 **Lender's Principal Judgment:**

9 Unpaid Principal Balance:	\$112,621.71
10 Pre-Judgment Interest from May 23, 11 2007 to April 27, 2017, the date set 12 forth in the Judgment at 1.850%, per 13 annum, (\$7.59 per diem):	\$23,055.72
Lender's Fees and Costs:	\$14,362.28
Attorney's Fees and Costs:	\$1,820.00
<i>Total Judgment Entered:</i>	<i>\$151,859.71</i>

14

15 **Additional Pre-Judgment Interest:**

16 Accrued Interest from April 28, 2017, 17 the day after the date set forth in the 18 Judgment through June 12, 2017, the 19 date of entry of the Judgment, at 20 1.850%, per annum (\$7.59 per diem):	\$341.55
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21

22 <i>Total Judgment Entered Including 23 Additional Pre-Judgment 24 Interest:</i>	<i>\$152,201.26</i>
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25 3.

26 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on ***\$152,201.26*** at
27 the legal rate of interest of 9% per annum, \$37.52 per diem, from June 13, 2017 to the date the real
28 property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of
this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

4.

The real property subject to this writ of execution is commonly known as 3039 STAPP
DRIVE, EUGENE, OR 97408 ("Property") and described in Exhibit "1" attached hereto.

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5.

The Judgment Creditor's name and address is:

CIT Bank, N.A.
c/o Financial Freedom
888 East Walnut Street
Pasadena, California 91101-1895

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

CIT Bank, N.A.
c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
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.

JUL 18 2017

*By: Angie Jones
court clerk*



Submitted by:

[Signature]
Nathan F. Smith, OSB #120112
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: nathan@mclaw.org

Dated:

6/23/17

EXHIBIT 1

Lot 10, DELTA PINES, as platted and recorded in File 73, Slide 132, Lane County Oregon Plat Records, in Lane County, Oregon.

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF HENRY E GODEGAST, an estate; LINDA TUCKS, an heir; KARLA RHOADS, an heir; SANDRA SAGE, an heir; DOROTHY HAGMIER, an heir; RICHARD GODEGAST, an individual; and all other persons, parties, or occupants unknown claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint herein, adverse to Plaintiff's title, or any cloud on Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 16CV30086

GENERAL JUDGMENT OF FORECLOSURE AGAINST:

- (1) ESTATE OF HENRY E GODEGAST
- (2) LINDA TUCKS
- (3) KARLA RHOADS
- (4) SANDRA SAGE
- (5) DOROTHY HAGMIER
- (6) RICHARD GODEGAST

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, CIT Bank, N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants ESTATE OF HENRY E GODEGAST, LINDA TUCKS, KARLA RHOADS, SANDRA SAGE, DOROTHY HAGMIER, and RICHARD GODEGAST, ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that orders of default have 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

1 commonly known as 3039 STAPP DRIVE, EUGENE, OREGON 97408 ("Property") and
2 extinguishing any and all interest of the Defendants in the Property.

3 2.

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

6 3.

7 Plaintiff is the holder of that certain adjustable rate note ("Note"), dated May 18, 2007 and
8 executed by HENRY E GODEGAST.

9 4.

10 The Note is secured by that certain deed of trust ("Deed of Trust") dated May 18, 2007 and
11 executed by HENRY E GODEGAST. The Deed of Trust was recorded on May 23, 2007 under the
12 recording number 2007-034727 of the Official Records of Lane County, Oregon, against the
13 Property, which is legally described in Exhibit "1" attached hereto. ("Property") and constitutes a
14 valid lien against the Property.

15 5.

16 The terms of the Note and Deed of Trust are in breach, therefore, Plaintiff has now declared
17 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

18 6.

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

23 7.

24 A judgment of foreclosure in the amount of \$151,859.71 shall be granted in favor of Plaintiff,
25 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
26 Not a Money Award ("Amount Owed").

27 8.

28 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the

1 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
2 disbursed to such party or parties as may establish their right thereto.

3 9.

4 Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary
5 costs and expenses incurred to enforcing the Note and Deed of Trust.

6 10.

7 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
8 assessments, municipal charges, and such other items as may constitute liens on the Property,
9 together with insurance and repairs necessary to prevent the impairment of the Property, together
10 with interest thereon from the date of payment may also be added to the Amount Owed and paid
11 from the proceeds from the sale of the Property.

12 11.

13 Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers,
14 or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and
15 every portion thereof, excepting only any statutory right of redemption provided by the laws of the
16 State of Oregon.

17 12.

18 Defendant HENRY E GODEGAST is not entitled to a homestead exemption in the Property.

19 13.

20 Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the
21 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

22 14.

23 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
24 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
25 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
26 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
27 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 Defendant HENRY E GODEGAST. Rather, it is a suit to execute upon the Property as security for the Amount Owed.

**DECLARATION OF DEBT SECURED BY DEED OF TRUST
(Pursuant to Senate Bill 368)**

18.

Under the terms of the Deed of Trust and the Note dated May 18, 2007, there is now due and owing the following amounts, to be hereinafter described as the Amount Due:

DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

- 1. Judgment Creditor:** CIT Bank, N.A.
- Address: c/o MALCOLM ♦ CISNEROS,
A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Judgment Attorney:** Nathan F. Smith
- Address: MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Telephone Number: (949) 252-9400

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2. Persons or Public Bodies Entitled to

a Portion the Judgment: N/A

3. Judgment Amount: \$150,039.71

4. Pre-Judgment Interest: Simple interest to accrue on \$112,621.71 from April 28, 2017 to the date the Judgment is entered into the Court's register at 1.850% per annum, \$7.59 per diem.

5. Post-Judgment Interest: Simple interest to accrue on \$151,859.71 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.

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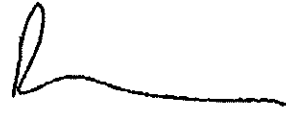
6. Periodic accrual:

N/A

7. Attorney's Fees:

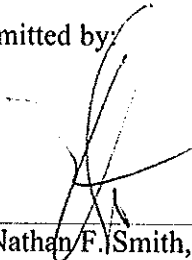
An award of \$1,820.00 in attorney's fees is made.

Signed: 6/7/2017 02:06 PM



R. Curtis Conover, Circuit Court Judge

Submitted by:



Dated: _____

5/26/17

Nathan F. Smith, OSB #120112
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: nathan@mclaw.org

EXHIBIT 1

Lot 10, DELTA PINES, as platted and recorded in File 73, Slide 132, Lane County Oregon Plat Records, in Lane County, Oregon.

1 CERTIFICATE OF READINESS

2 This proposed Order or Judgment is ready for judicial signature because:

- 3 Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule
4 or otherwise.
- 5 The relief sought is against an opposing party who has been found in default.
- 6 An order of default is being requested with this proposed judgment.
- 7 Each opposing party affected by this order or judgment has stipulated to the order or
8 judgment, as shown by each opposing party's signature on the document being
9 submitted.
- 10 Each opposing party affected by this order or judgment has approved the order or
11 judgment, as shown by signature on the document being submitted or by written
12 confirmation of approval sent to me.
- 13 I have served a copy of this order or judgment on all parties entitled to service and:
14 No objection has been served on me.
15 I received objections that I could not resolve with the opposing party despite
16 reasonable efforts to do so. I have filed a copy of the objections I received and
17 indicated which objections remain unresolved.
- 18 After conferring about objections, [role and name of opposing party] agreed
19 to independently file any remaining objection.
- 20 This is a proposed judgment that includes an award of punitive damages.

21
22 DATED: May 26, 2017

23 By: s/ Nathan F. Smith

24 Nathan F. Smith, OSB #120112
25 Attorney for Plaintiff
26 MALCOLM ♦ CISNEROS, A Law Corporation
27 2112 Business Center Drive, Second Floor
28 Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)