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LINCOLN COUNTY SHERIFF'S OFFICE
NEWPORT, OR
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN

NATIONSTAR MORTGAGE LLC,

Case No.: 16CV40044

Plaintiff,

vs.

WRIT OF EXECUTION IN
FORECLOSURE

THE UNKNOWN HEIRS AND DEVISEES
OF BEN A. SEBASTIANI; JACQUELYN A.
SEBASTIANI; OCCUPANTS OF THE
PROPERTY,

Defendants.

TO THE LINCOLN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 8/2/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

NATIONSTAR MORTGAGE LLC
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$232,303.97, plus post judgment interest at the statutory rate of 9.0% per annum from 8/2/2017 to 9/18/2017 in the amount of \$2,692.18, and continuing with a per diem of \$57.28, currently totaling \$234,996.15.

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 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or about 4/19/2007, the date of the Deed of Trust, and also the interest that the Defendant had

1 thereafter, in the real property described as shown in *Exhibit 1*; having APN No. R334935; and
2 commonly known as: 170 SW Strawberry Lane, Units A, B, C, D, Waldport, OR 97394.

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

Signed: 9/20/2017 08:40 AM

8 **DATED:** ____ day of ____



St. Jell.

9 _____
10 Title **Circuit Court Clerk Steven Zalewski**

11 By: _____
12

13 **McCarthy & Holthus, LLP**

14 s/ Robert B. Hakari 9/18/2017

15 _____
16 _ John Thomas OSB No. 024691
17 x Robert Hakari OSB No. 114082
18 920 SW 3rd Ave, 1st Floor
19 Portland, OR 97204
20 Phone: (971) 201-3200
21 Fax: (971) 201-3202
22 rhakari@mccarthyholthus.com
23 Of Attorneys for Plaintiff
24
25
26
27
28

EXHIBIT 1

Lot 3, Block 2, WILLOW ADDITION TO WALDPART, in the City of Waldport, County of Lincoln and State of Oregon.

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

NATIONSTAR MORTGAGE LLC,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND
DEVISEES OF BEN A. SEBASTIANI;
JACQUELYN A. SEBASTIANI;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV40044

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. All Defendants were duly served with process and failed to appear; the default has been entered against Defendants, and it appearing that 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 Lincoln County, Oregon, and is commonly known as 170 SW Strawberry Lane, Units A, B, C, D, Waldport, OR 97394 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R334935.
- b. Plaintiff is entitled to enforce the note dated April 19, 2007 and made, delivered, and executed by Jacquelyn Sebastiani and Ben A. Sebastiani ("Borrowers") to FIRST HORIZON HOME LOAN CORPORATION, A Kansas Corporation in the amount of \$224,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement

1 set forth on the Note.

2 c. A deed of trust was made, executed, and delivered by Borrowers on or about April 19, 2007
3 (the "Deed of Trust"). The Deed of Trust was recorded on April 27, 2007 as Instrument No.
4 200706072 in the official records of Lincoln County, Oregon. The Deed of Trust is a valid
5 and perfected lien against all of the Property for and securing the Amount Due. The lien of
6 the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in
7 effect until issuance of a Sheriff's Deed.

8 d. Borrower failed to make the payment that was due for May 1, 2016 and has not cured the
9 default. The amount of debt secured by the Deed of Trust that is now due and owing is
10 comprised of the following amounts (the "Amount Due"):

- | | | |
|----|---------------------------------------|----------------------|
| 11 | a) Unpaid principal balance: | \$ 187,071.78 |
| 12 | b) Prejudgment interest accruing from | \$ 9,831.79 |
| 13 | 4/1/2016 through 7/31/2017 and | |
| 14 | continuing until the entry of | |
| | judgment at the current rate of 4%: | |
| 15 | c) Additional amounts due under the | \$ 29,424.06 |
| | terms of the loan: | |
| 16 | d) Attorney fees and costs: | \$ 5,747.70 |
| 17 | e) Prevailing party fee (ORS 20.190 | \$ 85.00 |
| 18 | (1)(a)): | |
| 19 | Total: | \$ 232,303.97 |

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

23 e. The interest of the Defendants and any successor in interest in the Subject Property is
24 foreclosed and terminated excepting only any statutory right of redemption as provided by
25 Oregon law.

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

27 g. All right, title and interest in the Subject Property that Defendants Jacquelyn A. Sebastiani,
28

1 Ben A. Sebastiani had as of the date of the Deed of Trust or thereafter acquired is hereby
2 ordered to be sold by the Lincoln County Sheriff's Office in accordance with the process for
3 sale upon execution, and the proceeds of sale shall be applied:

- 4 1) First, to the costs of sale not incurred by Plaintiff;
- 5 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
6 entry of judgment through the date of the sale and any incurred costs of sale;
- 7 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
8 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
9 such party or parties as they may establish their right thereto.

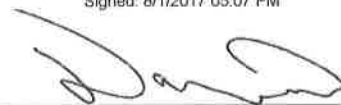
10 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
11 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
12 the date of entry of judgment through the date of the sale and any incurred costs of sale.

13 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
14 Property from and after the date of the sale and is entitled to such remedies as are available at
15 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
16 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
17 possession to the purchaser immediately upon the purchaser's demand for possession.

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

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

Signed: 8/1/2017 05:07 PM



Circuit Court Judge David V. Cramer

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

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

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

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

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

10 No objection has been served on me.

11 I received objections that I could not resolve with the opposing party despite
12 reasonable efforts to do so. I have filed a copy of the objections I received and
13 indicated which objections remain unresolved.

14 After conferring about objections, _____ agreed to independently file
15 any remaining objection.

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

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

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

20 This is a proposed judgment that includes an award of punitive damages and notice
21 has been served on the Director of the Crime Victims' Assistance Section as required
22 by subsection (4) of this rule.

23 Other: _____

24 **McCarthy & Holthus, LLP**

25 s/ Robert B. Hakari 7/31/17

26 _____
27 John Thomas OSB No. 024691

28 x Robert Hakari OSB No. 114082

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

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Of Attorneys for Plaintiff

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