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

BANK OF AMERICA, N.A.,

**CASE NUMBER: 1500873CV**

Plaintiff,

vs.

**WRIT OF EXECUTION IN FORECLOSURE**

KENNETH TUTTLE, an individual; PAULA E. TUTTLE, 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.

TO: THE SHERIFF OF KLAMATH COUNTY, OREGON:

1.

WHEREAS, on November 17, 2015, 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 KENNETH TUTTLE and PAULA E. TUTTLE ("Defendants") had on April 10, 2007, the date of the foreclosed Deed of Trust which was recorded on May 1, 2007, as Instrument No. 2007-007821 in the official records of the

1 Klamath County Recorder's Office, and/or all of the interest which Defendants had thereafter, in the  
2 real property described in the Judgment to satisfy the Judgment as follows:

3  
4 **Lender's Principal Judgment:**

5 Unpaid Principal Balance:	\$230,601.98
6 Pre-Judgment Interest from October 1, 7 2012 to November 5, 2015, the date set 8 forth in the Judgment at 3.000%, per 9 annum, (\$18.9535 per diem):	\$21,623.43
10 Lender's Fees and Costs:	\$2,511.56
11 Attorney's Fees and Costs:	\$3,733.00

12 ***Total Judgment Entered:*** **\$258,469.97**

13 **Additional Pre-Judgment Interest:**

14 Accrued Interest from November 6, 15 2015, the day after the date set forth in 16 the Judgment through November 17, 17 2015, the date of entry of the Judgment, 18 at 3.000%, per annum (\$18.9535 per 19 diem):	\$208.49
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20 ***Total Judgment Entered Including  
21 Additional Pre-Judgment  
22 Interest:***

**\$258,678.46**

3.

23 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on **\$258,678.46** at  
24 the legal rate of interest of 9% per annum, \$63.78 per diem, from November 18, 2015 to the date the  
25 real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus  
26 costs of this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

4.

27 The real property subject to this writ of execution is commonly known as LOT 241 RIDGE  
28 WATER, KLAMATH FALLS, OR 97601 ("Property") and described in Exhibit "1" attached hereto.

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5.

The Judgment Creditor's name and address is:

BANK OF AMERICA, N.A  
100 N. Tryon St.  
Charlotte, North Carolina 28255

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

BANK OF AMERICA, 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.



June 20, 2017

John M. Powell  
by Marcela Flores.

Submitted by:

Dated: 5/23/17

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 241, Tract 1496, RIDGEWATER SUBDIVISION PHASE 1, 1<sup>ST</sup> ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

County of KLAMATH)  
STATE OF OREGON)  
I hereby certify that the within is a  
true and correct copy and the whole  
of the original.  
Clerk of Court



By Zakie Dunaway  
Date 02-29-2016

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

**BANK OF AMERICA, N.A,**

**CASE NUMBER: 1500873CV**

**Plaintiff,**

**vs.**

**STIPULATED GENERAL JUDGMENT OF  
FORECLOSURE AS TO DEFENDANTS  
KENNETH TUTTLE AND PAULA E.  
TUTTLE**

**KENNETH TUTTLE, an individual; PAULA  
E. TUTTLE, 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.**

1

**BANK OF AMERICA, N.A ("Plaintiff"), by and through its attorney of record, Nathan F. Smith of  
Malcolm ♦ Cisneros, A Law Corporation, and Stipulating Defendants KENNETH TUTTLE and  
PAULA E. TUTTLE, by and through their respective attorneys of record ("Stipulating Defendants"),  
hereby stipulate as follows:**

- 1 1. Plaintiff filed the Complaint for Judicial Foreclosure and Breach of Promissory Note on  
2 March 13, 2015 in the Circuit Court of the State of Oregon for the County of Klamath  
3 ("Complaint").
- 4 2. Defendants KENNETH TUTTLE and PAULA E. TUTTLE are the record owners of the  
5 property located at LOT 241 RIDGE WATER, KLAMATH FALLS, OR 97601 located in Klamath  
6 County, Oregon ("Property").
- 7 3. On or about April 10, 2007, Defendant KENNETH TUTTLE entered into a note ("Note")  
8 and a deed of trust ("Deed of Trust") with Bank of America, N.A, the original lender. The Deed of  
9 Trust was recorded with the Klamath County Recorder's Office on May 1, 2007 as Instrument  
10 Number 2007-007821. Defendant PAULA E. TUTTLE executed the Deed of Trust, but did not  
11 execute the Note.
- 12 4. Plaintiff is the holder of the Note and Deed of Trust made, delivered, and executed by  
13 Stipulating Defendants in the principal amount of \$254,700.00. The Note is secured by the first  
14 priority Deed of Trust encumbering the Property ("Lien").
- 15 5. The legal description of the Property is as follows:  
16 **Please see Exhibit "1" attached hereto.**
- 17 6. Stipulating Defendant Kenneth Tuttle failed to comply with the terms of the Note and Deed  
18 of Trust by failing to make the payments due and owing according to the terms of the Note and Deed  
19 of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff has now declared all sums  
20 due and owing under the Note and Deed of Trust as immediately due and payable.
- 21 7. As of October 5, 2015 there will be \$254,736.97 due and owing under the Note and Deed of  
22 Trust. Furthermore, interest, fees, and costs continue to accrue under the Note and Deed of Trust.  
23 Judgment in the amount of \$258,469.97 shall be granted in favor of BANK OF AMERICA, N.A, its  
24 successors or assigns, and against Stipulating Defendant Kenneth Tuttle, as further described in the  
25 judgment below.
- 26 8. Plaintiff is entitled to recover its reasonable attorneys' fees and all reasonable and necessary  
27 costs and expenses incurred in enforcing the Note and Deed of Trust.  
28

1 9. Plaintiff's Lien is a valid first priority lien encumbering the Property, and is superior to any  
2 interest, lien or claim of Stipulating Defendants. Stipulating Defendants, and all persons claiming by,  
3 through, or under them, as purchasers, encumbrancers, or otherwise, are adjudged inferior and  
4 subordinate to Plaintiff and are forever foreclosed of all interest, lien, or claim in the Property and  
5 every portion thereof.

6 10. Plaintiff shall be entitled to foreclose on the Property and to sell the Property at a foreclosure  
7 sale by the Klamath County Sheriff in the manner provided by law and in according with any  
8 general judgment entered herein in order to satisfy all amounts due and owing under the Note and  
9 Deed of Trust as adjudged below.

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

15 12. Plaintiff or any other party to this suit may become the purchaser at the sale of the Property.  
16 The purchaser is entitled to exclusive and immediate possession of the Property from and after the  
17 date of sale and is entitled to such remedies as are available at law to secure possession, and may  
18 apply to the Clerk of the Court for a Writ of Assistance, if Stipulating Defendants or any other party  
19 or person shall refuse to surrender possession of the property to the purchaser immediately on the  
20 purchaser's demand for possession.

21 13. Plaintiff may credit bid up to the aggregate amount of its Judgment plus interest from the  
22 date of this Judgment until sale without advancing any cash except money required for the Sheriff's  
23 sale.

24 14. The proceeds from the sale are to be applied first toward the costs of sale, then toward the  
25 satisfaction of Plaintiff's Judgment awarded herein and the surplus, if any to the Clerk of the Court  
26 to be disbursed to such party or parties that may establish their rights thereto.

27 15. No deficiency judgment will be sought by Plaintiff against either Stipulating Defendant.  
28



1 Plaintiff expressly waives the right, if any exists, to seek a deficiency judgment against either  
2 Stipulating Defendant. While the money award portion of this Judgment shall be entered against  
3 Stipulating Defendant Kenneth Tuttle, Plaintiff will not seek to collect the Judgment from either  
4 Stipulating Defendant and expressly waives any such right. Plaintiff will seek to execute upon the  
5 Property as its sole remedy to satisfy the Judgment to Plaintiff. Furthermore, Plaintiff will not  
6 execute upon any deficiency remaining unsatisfied against either Stipulating Defendant from the  
7 proceeds of the foreclosure sale in accordance with ORS 86.797.

8 16. Plaintiff shall file a full satisfaction of judgment promptly and without delay upon receipt of  
9 the sheriff's deed. In the event the property is purchased by a third party at the sheriff's sale, the  
10 plaintiff shall file a satisfaction of judgment upon receipt of funds from the third party.

11 17. If plaintiff is the highest bidder at any foreclosure sale, Stipulating Defendants waive their  
12 statutory right of redemption, if any. Stipulating Defendants are not entitled to a homestead  
13 exemption on account of their interest in the property.

14 18. This Court shall retain jurisdiction over the Plaintiff and Stipulating Defendants ("Parties")  
15 to enforce all provisions of this Judgment and to enter such additional order, judgment, or decree  
16 necessary for the purchaser at the foreclosure sale to obtain possession of the Property.

17 19. This Judgment shall inure to the benefit of Plaintiff and Stipulating Defendants, their  
18 successors and/or assignees.

19 20. The terms of this Judgment contain the entire agreement between the Parties and supersede  
20 any and all other agreements, either oral or written, between the Parties. The Parties anticipate that a  
21 the General Judgment will be filed with the Court and the Parties consent to the Plaintiff filing with  
22 notice to Stipulating Defendants.

23 21. The Parties shall have the right to enforce the terms of this Judgment by Supplemental and/or  
24 General Judgment or motion for declaratory judgment.

25 **JUDGMENT**

26 1. Judgment Creditor:  
27 Address:

BANK OF AMERICA, N.A  
c/o MALCOLM ♦ CISNEROS, A Law Corporation  
2112 Business Center Drive, 2nd Floor  
Irvine, California 92612

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2. **Judgment Attorney:** Nathan F. Smith  
Address: MALCOLM ♦ CISNEROS, A Law Corporation  
2112 Business Center Drive, 2<sup>nd</sup> Floor  
Irvine, California 92612  
Telephone Number: (949) 252-9400  
3. **Judgment Debtor:** KENNETH TUTTLE  
Address: 222 NW Irving Avenue, Bend, OR 97703  
Year of Birth: Unknown  
Final 4 digits of Social Security number: XXX-XX-4636  
Driver's license number and issuing state: Unknown  
Judgment Debtor Attorney: Megan K. Burgess, Attorney  
Peterkin & Associates  
222 NW Irving Avenue  
Bend, OR 97703

4. **Persons or Public Bodies Entitled to a Portion the Judgment:** N/A  
5. **Judgment Amount:** \$254,736.97  
6. **Pre-Judgment Interest:** Simple interest to accrue on \$230,601.98 from November 6, 2015 to the date the General Judgment is entered into the Court's register at 3.000% per annum, \$18.9535 per diem.  
7. **Post-Judgment Interest:** Simple interest to accrue on \$258,469.97 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.  
8. **Periodic accrual:** N/A  
9. **Attorney's Fees and Costs:** An award of \$3,733.00 in attorney's fees and costs is made for Judgment of Foreclosure.  
Attorney Fees: \$2,345.00  
Filing Cost: \$531.00  
Recording Cost – Lis Pendens: \$57.00  
Process Service Cost: \$600.00  
Mediation Cost: \$200.00

Signed: 11/5/2015 08:37 AM

**IT IS SO ORDERED.**

*Royanne Osborne*

Dated \_\_\_\_\_

\_\_\_\_\_  
Klamath County Circuit Court Judge


~~PRESENTED BY:~~

\_\_\_\_\_  
Nathan F. Smith, OSB#120112  
Attorney for BANK OF AMERICA,  
N.A.

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Stipulated to by:

**APPROVED AND AGREED TO:  
FOR BANK OF AMERICA, N.A**  
Accepted this 4<sup>th</sup> day of November, 2015



- Nathan F. Smith, OSB #120112
- Richard J. Bayless, OSB #101826  
Attorneys for Plaintiff  
MALCOLM ♦ CISNEROS, A Law Corporation  
2112 Business Center Drive, Second Floor  
Irvine, California 92612  
(949) 252-9400 (TELEPHONE)  
(949) 252-1032 (FAX)  
Email: nathan@mclaw.org

**APPROVED AND AGREED TO:  
FOR KENNETH TUTTLE**  
Accepted this 2 day of November, 2015




---

Megan K. Burgess, OSB#042526  
Peterkin & Associates  
222 NW IRVING AVENUE  
BEND, OR 97701  
(541) 389-2572 (TELEPHONE)  
(541) 389-6298 (FAX)  
Email: mburgess@peterkinpc.com

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**APPROVED AND AGREED TO:**

**FOR PAULA TUTTLE**

Accepted this 26<sup>th</sup> day of October, 2015



Melvin D. Ferguson, OSB#852000  
514 Walnut Ave  
Klamath Falls, OR 97601  
(541) 850-2828 (TELEPHONE)  
(541) 883-1923 (FAX)  
Email: melvindferguson@cot.net

# EXHIBIT 1

Lot 241, Tract 1496, RIDGEWATER SUBDIVISION PHASE I, 1<sup>ST</sup> ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true copy of the foregoing **STIPULATED GENERAL JUDGMENT OF FORECLOSURE AS TO DEFENDANTS KENNETH TUTTLE AND PAULA E. TUTTLE** on the below named individual(s) by mailing a copy in a sealed postage paid envelope addressed as set forth below and deposited in the U.S. Mail at Irvine, California:

PAULA E. TUTTLE  
c/o Melvin D. Ferguson, Attorney at Law  
514 Walnut Ave  
Klamath Falls, OR 97601

KENNETH TUTTLE  
c/o Peterkin & Associates  
Attn: Megan K. Burgess  
222 NW Irving Avenue  
Bend, OR 97701

DATED: November 5, 2015

MALCOLM ♦ CISNEROS, A Law Corporation



Tabitha Ojala  
MALCOLM ♦ CISNEROS, A Law Corporation  
2112 Business Center Drive, Second Floor  
Irvine, California 92612  
Phone: (949) 252-9400  
Fax: (949) 252-1032  
Email: tojala@mclaw.org