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IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF CLATSOP

CARRINGTON MORTGAGE SERVICES, LLC,

Plaintiff,

vs.

NATHAN J. KERWIN; RICHARD R. SCOTT;
PARTIES IN POSSESSION,

Defendants.

Case No. 17CV03132

GENERAL JUDGMENT OF
FORECLOSURE AND SALE

Defaults being granted contemporaneously against Defendant(s), Nathan J. Kerwin,
Richard R. Scott and Parties in Possession:

It is hereby

ORDERED AND ADJUDGED:

1. The real property to which this judgment relates (hereafter the "Property") is situated in Clatsop County, Oregon is commonly known as 401 Railroad Avenue, Gearhart, OR 97138 and is legally described as follows:

1 - GENERAL JUDGMENT OF FORECLOSURE AND
SALE
S&S No. 16-119629

SHAPIRO & SUTHERLAND, LLC
1499 SE Tech Center Place, Suite 255, Vancouver, WA 98683
Telephone (360)260-2253 (800)970-5647
Fax (360)260-2285
ksutherland@sls.com

1 Parcel 2 of PARTITION PLAT NO. 2006-014, in the City of Gearhart, County of
2 Clatsop, State of Oregon, recorded May 30, 2006 as Instrument No. 200606033,
Clatsop County Records.

- 3 2. The Deed of Trust executed and delivered by Defendant, Nathan J Kerwin, as to an
4 undivided 1/2 interest and Richard R Scott, as to an undivided 1/2 interest ("Borrower") on
5 or about February 8, 2011 and recorded on February 15, 2011 as Instrument No. 201101592
6 in the official records of Clatsop County, Oregon, is a valid and perfected lien against all of
7 the Property for the amount of Plaintiff's judgment as provided herein.
8
- 9 3. The Plaintiff is the holder of the original note dated February 8, 2011 and made by Nathan J
10 Kerwin and Richard R Scott in the amount of \$235,815.00. A copy of the Note was
11 attached to the complaint as Exhibit. Plaintiff is the holder of the Note and the beneficial
12 interest in the Deed of Trust (together the "Loan").
13
- 14 4. The interest of each of the Defendant(s) subject to this Judgment and any successor in
15 interest in the Property is foreclosed and terminated excepting only any statutory right of
16 redemption as provided by Oregon law.
17
- 18 5. The lien of the Plaintiff is superior to any interest, lien, or claim of the remaining
19 Defendants and shall remain in effect until issuance of a Sheriff's Deed. Upon Motion to
20 the Court and good cause shown, Plaintiff may move to rescind the foreclosure judgment
21 and to reinstate the Loan prior to the Sheriff's sale, returning the parties to their prejudgment
22 interests and priorities.
23
- 24 6. The Defendant(s) are not entitled to a homestead exception as against Plaintiff's judgment.
25

1 7. All of the rights, title and interest that Borrower(s) had as of the date of the Deed of Trust or
2 thereafter acquired in the subject Property, is hereby ordered to be sold by the Clatsop
3 County Sheriff's Office in accordance with the process for sale upon execution, and the
4 proceeds of sale shall be applied; first to the costs of sale; second to satisfaction of the
5 amounts awarded Plaintiff herein; with the surplus, if any, to the Defendants in the priority
6 as their interest may appear or to the clerk of the court to be distributed to such party of
7 parties as may establish their right thereto.
8

9 8. Plaintiff or any junior lienholders may become purchaser at the sale of the Property.

10 9. The purchaser at the sale is entitled to exclusive and immediate possession of the Property
11 from and after the date of the sale and is entitled to such remedies as are available at law or
12 in equity to secure possession.
13

14 10. The purchaser at the sale may apply to the Court for a writ of assistance if any Defendant or
15 any person holding possession under or through such Defendant(s) shall refuse to surrender
16 possession to the purchaser immediately on the purchaser's demand for possession.
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11. Under the terms of the Loan there is now due and owing to Plaintiff the following amounts:

Principal		\$216,569.59	
Prejudgment interest at 5.125% through March 9, 2017 (accruing thereafter until entry of judgment at \$937.80 per mensum)			\$11,099.16
Late Charges		\$0.00	
Other Costs and fees (recoverable)		5,312.76	
Property Tax	\$2,366.72		
Hazard Insurance	\$657.00		
PMI/MIP	\$957.60		
Property Inspections	\$100.00		
FHA Premium Due	\$478.80		
Beginning Escrow Balance	\$-118.36		
Flood Insurance	\$826.00		
Field Chase Fee	\$45.00		
	Subtotal		\$221,882.35
Total plus Prejudgment Interest			\$232,981.51

12. Attorney Fees and Costs are awarded to Plaintiff as follows:

Costs			\$2,952.40
Title Search Cost		\$790.00	
Skip Trace Costs		\$160.00	
Filing Fee		\$531.00	
Lis Pendens Recording Fee		\$61.00	
Service by Publication		\$860.40	
Service Costs		\$275.00	
Prevailing Party Fee		\$275.00	
Attorney fees			\$2,600.00
Total			\$5,552.40

13. Post judgment interest on the aggregate of all amounts declared due above shall accrue from the date of judgment at the legal rate of 9% per annum pursuant to ORS 82.010.

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1 14. This Judgment shall not create a personal lien or liability against Borrower except as is
2 customary or necessary to execute on such Judgment and for purposes of redemption. In no
3 event should it be construed as establishing personal liability for any persons whose debt has
4 been extinguished in bankruptcy or by an In Rem order granting relief from stay, but only to
5 foreclose the deed of trust mortgage. In the event the proceeds of sale are insufficient to pay
6 the amounts due to Plaintiff, no general execution shall be issued and Plaintiff shall not be
7 entitled to any further judgment, including a judgment for deficiency.
8

9 15. Execution may issue against the subject property for the aggregate amount found due
10 Plaintiff herein as detailed in Paragraphs 11 through 13 together (together "Amounts Due").
11 Plaintiff may credit bid up to the Amounts Due plus such additional amounts as provided by
12 ORS 18.936 or other applicable law.
13

14 16. If before sale such amount, including sheriff's fees for the execution, is tendered to the
15 Court and paid to the clerk, the execution, if issued, shall be recalled and the effect of the
16 judgment as to the amounts due shall be terminated.

17 17. The Clerk of the Court is hereby ordered to issue a Writ of Execution in Foreclosure for the
18 sale of the Property. Plaintiff may credit bid the amounts determined in Paragraphs 11
19 through 13 plus such additional amounts as provided in Paragraph 16 for purposes of ORS
20 18.936.
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1 18. This Court shall retain jurisdiction to enter such additional order, judgment or decree
2 necessary to enforce this judgment, the writ of execution or for the purchaser at the
3 foreclosure sale to obtain possession.
4
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8 Signed: 7/7/2017 02:27 PM

9 

10 Circuit Court Judge Cindee S. Matyas

11 **Certificate of Readiness under UTCR 5 100**

12 This proposed order or judgment is ready for judicial signature because:
13

- 14 1. Each party affected by this order or judgment has stipulated to the order or judgment, as
shown by each party's signature on the document being submitted.
15 2. Each party affected by this order or judgment has approved the order or judgment, as
shown by each party's signature on the document being submitted or by written confirmation of
16 approval sent to me.
17 3. I have served a copy of this order or judgment on each party entitled to service and:
a. No objection has been served on me.
18 b. I received objections that I could not resolve with a party despite reasonable efforts to do
so. I have filed a copy of the objections I received and indicated which objections remain
19 unresolved.
c. After conferring about objections, [role and name of objecting party] agreed to
20 independently file any remaining objection.

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- 1 4. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
2 otherwise. UTCR 8/1/16 5.5 (including out-of-cycle amendment of 5.100)
3 5. This is a proposed judgment that includes an award of punitive damages and notice has
4 been served on the Director of the Crime Victims' Assistance Section as required by subsection
5 (5) of this rule.
6 6. Other: _____

7
8 Dated: July 6, 2017

9 Submitted by:

10 Attorneys for Plaintiff,
11 SHAPIRO & SUTHERLAND, LLC

12 By: _____

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