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LINN COUNTY  
SHERIFFS OFFICE

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

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A. FKA THE BANK  
OF NEW YORK TRUST COMPANY, N.A.  
AS SUCCESSOR TO JPMORGAN CHASE  
BANK, N.A. AS TRUSTEE FOR TRUMAN  
CAPITAL MORTGAGE LOAN TRUST  
2005-1 ASSET-BACKED CERTIFICATES,  
SERIES 2005-1,

Plaintiff,

v.

DON HAALAND AKA DON AARDAL  
HAALAND; GMS PROPERTIES, LLC;  
KELCY A. ALFORD; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 16CV36556

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE LINN COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on July 31, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR TO JPMORGAN CHASE BANK, N.A. AS TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2005-1 ASSET-BACKED CERTIFICATES, SERIES 2005-1

c/o Jeremy Clifford  
Attorney for Plaintiff

16CV36556  
WREX  
Writ - Execution  
7849060

WRIT OF EXECUTION -1  
MH FILE NO - OR-14-637281-JUD



MCCARTHY & HOLTHUS, LLP  
920 SW 3RD AVE, 1ST FLOOR  
PORTLAND, OR 97204  
PH: (971) 201-3200  
FX: (971) 201-3202

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McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

With the adjudicated amount due of \$177,384.48, plus post judgment interest at the statutory rate of 9.0% per annum from July 31, 2017 to August 25, 2017 in the amount of \$1,093.47, and continuing with a per diem of \$43.74, currently totaling \$178,477.95.

**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 December 24, 1996, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: 384947 and 695383, and commonly known as: 31365 Berlin Road, Lebanon, OR 97355.

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



Signed: 8/25/2017 10:33 AM

*Cynthia Mitchell*

Cynthia Mitchell, Administrative Authority

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Dated: August 23, 2017, and submitted by:

**McCarthy & Holthus, LLP**

s/ Jeremy Clifford

- \_ John Thomas OSB No. 024691
- \_ Robert Hakari OSB No. 114082
- \_ Andreanna Smith OSB No. 131336
- \_ Brady Godbout OSB No. 132708
- \_ Samuel Burton OSB No. 136522
- \_ Brian Kidder OSB No. 140459
- x Jeremy Clifford OSB No. 142987
- \_ Michael Scott OSB No. 973947

920 SW 3rd Ave, 1st Floor  
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Fax: (971) 201-3202  
jclifford@mccarthyholthus.com  
Of Attorneys for Plaintiff

# EXHIBIT 1

## PARCEL I:

A tract of land situated in the County of Linn, State of Oregon, more particularly described as follows: Beginning at a 5/8 inch iron rod on the Northeastly right-of-way line of Berlin Road, said 5/8" iron rod being North 15°42' East 1200.69 feet and North 48°38' West 392.09 feet from a point on the South line of and South 89°52' East 1100.22 feet from the most Southerly Southwest corner of the Joseph Hardman Donation Land Claim No. 46 in Section 27 of Township 12 South, Range 1 West of the Willamette Meridian, Linn County, Oregon, said beginning point being the Southeast corner of that parcel conveyed to William J. Jones, et ux, by Deed recorded in Linn County Microfilm Records, Volume 92, page 214; and running thence North 48°38' West, along said right-of-way line, 32.28 feet; thence North 15°42' East 718.16 feet; thence North 74°18' West 342.50 feet to the Westerly line of said Jones parcel; then North 15°43' East 984.48 feet to the Northwest corner of said Jones parcel; thence South 89°51'30" East 386.6 feet to a 5/8" iron rod at the Northeast corner of said Jones parcel; thence South 15°42' West 1820.69 feet to the point of beginning.

## PARCEL II:

A tract of land situated in the County of Linn, State of Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron rod marking the intersection of the Northerly right-of-way line of Linn County Road No. 20 with the Westerly right-of-way line of a 20.0 foot wide access road, said rod being South 89°52' East 1100.22 feet and North 15°42' East 1200.69 feet and North 48°38' West 392.09 feet from the most Southerly Southwest corner of the Joseph Hardman Donation Land Claim No. 46 in Section 27, Township 12 South, Range 1 West, Willamette Meridian, in Linn County, Oregon; thence North 15°42' East 1820.69 feet along the Westerly right-of-way of said 20.0 foot wide roadway, to a 5/8 inch iron rod; thence North 89°51'-1/2" West 386.6 feet to the Westerly boundary of Deed recorded in Microfilm Volume 66, Page 715, Linn County Microfilm Records; thence South 15°43' West along the Westerly boundary of said Deed, 1537.98 feet, more or less, to a 5/8 inch iron rod on the Northerly right-of-way line of said Market Road No. 20; thence South 48°38' East 413.45 feet to the point of beginning.

EXCEPTION THEREFROM that portion conveyed by instrument recorded September 30, 1994 in Volume 718, Page 104, Linn County Microfilm Records, described as follows:

Beginning at a 5/8 inch iron rod on the Northeastly right-of-way line of Berlin Road, said 5/8" iron rod being North 15°42' East 1200.69 feet and North 48°38' West 392.09 feet from a point on the South line of and South 89°52' East 1100.22 feet from the most Southerly Southwest corner of the Joseph Hardman Donation Land Claim No. 46 in Section 27 of Township 12 South, Range 1 West of the Willamette Meridian, Linn County, Oregon, said beginning point being the Southeast corner of that parcel conveyed to William J. Jones, et ux, by Deed recorded in Linn County Microfilm Records, Volume 92, page 214; and running thence North 48°38' West, along said right-of-way line, 32.28 feet; thence North 15°42' East 718.16 feet; thence North 74°18' West 342.50 feet to the Westerly line of said Jones parcel; then North 15°43' East 984.48 feet to the Northwest corner of said Jones parcel; thence South 89°51'30" East 386.6 feet to a 5/8" iron rod at the Northeast corner of said Jones parcel; thence South 15°42' West 1820.69 feet to the point of beginning.

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

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR TO JPMORGAN CHASE BANK, N.A. AS TRUSTEE FOR TRUMAN CAPITAL MORTGAGE LOAN TRUST 2005-1 ASSET-BACKED CERTIFICATES, SERIES 2005-1,

Plaintiff,

v.

DON HAALAND AKA DON AARDAL HAALAND; GMS PROPERTIES, LLC; KELCY A. ALFORD; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV36556

GENERAL JUDGMENT OF FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants DON HAALAND AKA DON AARDAL HAALAND; GMS PROPERTIES, LLC; KELCY A. ALFORD, and OCCUPANTS OF THE PROPERTY ("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 Linn County, Oregon, and is commonly known as 31365 Berlin Road, Lebanon, OR 97355 (the "Subject

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Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 384947, and 695383.

b. Plaintiff is entitled to enforce the note dated December 24, 1996 and made, delivered, and executed by DON HAALAND to U.S. FINANCIAL MORTGAGE CORP. in the amount of \$103,200.00 (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 Defendant DON HAALAND AKA DON AARDAL HAALAND on or about December 26, 1996 (the “Deed of Trust”). The Deed of Trust was recorded on December 31, 1996 as Volume 844 and page 678 in the official records of Linn 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 October 1, 2009 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”):

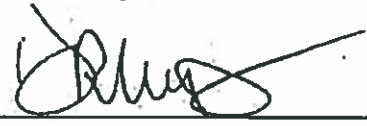
- a) Unpaid principal balance: \$86,969.09
- b) Prejudgment interest accruing from 9/1/2009 through 7/24/2017 and continuing until the entry of judgment at the current Note rate of 9.25%: \$63,552.97
- c) Additional amounts due under the terms of the loan: \$21,190.95
- d) Attorney fees and costs: \$5,586.47
- e) Prevailing party fee (ORS 20.190 (1)(a)): \$85.00
- Total: \$177,384.48**

- 1 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
- 2 date of entry of this judgment through the sale of the Subject Property at the rate of 9.25%
- 3 per annum.
- 4 e. The interest of the Defendants and any successor in interest in the Subject Property is
- 5 foreclosed and terminated excepting only any statutory right of redemption as provided by
- 6 Oregon law.
- 7 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- 8 g. All right, title and interest in the Subject Property that Defendant DON HAALAND AKA
- 9 DON AARDAL HAALAND had as of the date of the Deed of Trust or thereafter acquired is
- 10 hereby ordered to be sold by the Linn County Sheriff's Office in accordance with the process
- 11 for sale upon execution, and the proceeds of sale shall be applied:
  - 12 1) First, to the costs of sale not incurred by Plaintiff;
  - 13 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
  - 14 entry of judgment through the date of the sale and any incurred costs of sale;
  - 15 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
  - 16 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
  - 17 such party or parties as they may establish their right thereto.
- 18 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
- 19 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
- 20 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 21 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
- 22 Property from and after the date of the sale and is entitled to such remedies as are available at
- 23 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
- 24 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
- 25 possession to the purchaser immediately upon the purchaser's demand for possession.
- 26 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
- 27 entitled to any further or other judgment, including a judgment for the deficiency.

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- 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 18.950 (4), the apparent priority of liens subsequent and inferior to the Deed of Trust are as follows:
  - 1) Defendant KELCY A. ALFORD may claim an interest in Subject Property by virtue of a Memorandum of Contract of Sale recorded 10/23/2010 as Instrument No. 2010-20145 in the official records in this county.
  - 2) Defendant GMS PROPERTIES, LLC may claim an interest in Subject Property by virtue of a Bargain and Sale Deed recorded 12/20/2010 as Instrument No. 2010-19878.

Signed: 7/28/2017 08:29 AM



Circuit Court Judge, Daniel R. Murphy

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

This proposed Judgment Of Foreclosure is ready for judicial signature because:

- 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.



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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: \_\_\_\_\_

Dated: July 24, 2017, and submitted by:

**McCarthy & Holthus, LLP**

s/ Jeremy Clifford  
Jeremy Clifford OSB No. 142987  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204  
Phone: (971) 201-3200  
Fax: (971) 201-3202  
jclifford@mccarthyholthus.com  
Of Attorneys for Plaintiff

# EXHIBIT 1

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A tract of land situated in the County of Linn, State of Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron rod marking the intersection of the Northerly right-of-way line of Linn County Road No. 20 with the Westerly right-of-way line of a 20.0 foot wide access road, said rod being South 89°52' East 1100.22 feet and North 15°42' East 1200.69 feet and North 48°38' West 392.09 feet from the most Southerly Southwest corner of the Joseph Hardman Donation Land Claim No. 46 in Section 27, Township 12 South, Range 1 West, Willamette Meridian, in Linn County, Oregon; thence North 15°42' East 1820.69 feet along the Westerly right-of-way of said 20.0 foot wide roadway, to a 5/8 inch iron rod; thence North 89°51'-1/2" West 388.6 feet to the Westerly boundary of Deed recorded in Microfilm Volume 66, Page 715, Linn County Microfilm Records; thence South 15°43' West along the Westerly boundary of said Deed, 1537.98 feet, more or less, to a 5/8 inch iron rod on the Northerly right-of-way line of said Market Road No. 20; thence South 48°38' East 413.45 feet to the point of beginning.

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