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

PLUMAS BANK,

Plaintiff,

vs.

ALL SEASONS RCF, INC.; PROCOPIO F. BANCOLITA; ROSALINDA D. BANCOLITA; WASHINGTON MUTUAL BANK; ONPOINT COMMUNITY CREDIT UNION; WHISPERINGFIR, LLC; and OCCUPANTS OF THE PREMISES,

Defendants.

Case No. 16CV33586

**WRIT OF EXECUTION OF REAL PROPERTY (Foreclosure)**

TO: THE SHERIFF OF LANE COUNTY, GREETINGS:

**FORECLOSURE:**

WHEREAS, on September 14, 2017, in the above-entitled court, a judgment of foreclosure was enrolled and entered in the above-entitled cause;

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), all of the interest that defendants ALL REASONS RCF, INC., Procopio F. Bancolita and Rosalinda D. Bancolita had on Dccember 12, 2014, the date of the promissory note, and also all of the interest that defendants had thereafter, in the real property at 709 West Broadway, Eugene, Oregon 97401, and described in the Judgment and particularly as follows:

Real property in the County of Lane, State of Oregon, described as follows:

Beginning at the Northwest corner of the intersection of Ninth Avenue West (now Broadway) and Madison Street in Eugene, Lane County, Oregon; thence North 89° 45' 16" West along the North line of said Ninth Avenue West (Now Broadway) 66.87 feet; thence North 0° 07' 29" East, 27.05 feet; thence South 89° 45' 16" East, 0.22 feet; thence North 0° 07' 29" East 1.99 feet; thence North 89° 45' 16" West, 0.67 feet; thence North 0° 07' 29" East, 59.25 feet; thence South 89° 45' 16" East, 0.67 feet; thence North 0° 07' 29" East, 48.69 feet; thence North 89° 45' 16" West, 0.19 feet; thence North 0° 07' 29" East 7.52

1 feet, to a point on the North Line or its Westerly extension thereof of Tract  
2 of Land conveyed to Joe Kats and Hazel Kats, by Instrument Recorded  
3 April 18, 1962, Reception No. 66589, Lane County Oregon Deed Records;  
4 thence East along said North Line to the West Line of Madison Street; thence  
5 South along said West Line 145.0 feet to the point of beginning, in Lane  
6 County, Oregon.

7 NOTE: This legal description was created prior to January 1, 2008.

8 to satisfy the principal sum of \$371,954.93, together with prejudgment interest from January 30,  
9 2017, to March 21, 2017, at 6% per annum, together with further prejudgment interest from  
10 March 21, 2017, to September 13, 2017, at 6.25% per annum, together with late fees of  
11 \$2,938.24, together with costs, expenses and disbursements in the sum of \$34,505.82, plus  
12 interest that accrues on the total of the above at 9% per annum from September 14, 2017, to the  
13 date of sale and the costs of this writ, making due return within 60 days after you receive this  
14 writ.

15 **JUDGMENT CREDITOR INFORMATION:**

16 Name: Plumas Bank  
17 Mailing Address: c/o Wilson C. Muhlheim  
18 Luvaas Cobb  
19 777 High Street #300  
20 City/Zip: Eugene, Oregon 97401  
21 Phone: (541) 484-9292

22 WITNESS my hand and seal of the said court on this 18<sup>th</sup> day of September, 2017.

23 TRIAL COURT ADMINISTRATOR

24 By: Angie Jones  
25 Court Administrator  
26 court clerk



27 SUBMITTED BY:  
28 Luvaas Cobb  
29 Attorneys for Plaintiffs  
30 P.O. Box 10747  
31 Eugene, OR 97440-2747  
32 (541) 484-9292  
33 fax (541) 343-1206

## CERTIFICATE OF SERVICE

I certify that I served the foregoing WRIT OF EXECUTION OF REAL PROPERTY (FORECLOSURE) by the following indicated method or methods:

### **PARTIES SERVED ELECTRONICALLY BY OREGON JUDICIAL DEPARTMENT FILE & SERVE:**

Donald J. Churnside  
[Don@oregonlegalteam.com](mailto:Don@oregonlegalteam.com)  
Gaydos Churnside & Balthrop, P.C.  
440 E. Broadway, #300  
Eugene, OR 97401  
*(Of Attorneys for Whisperingfir)*

  X   By **electronically filing** full, true and correct copies thereof with the Oregon Judicial Department File & Serve and identifying the above attorney(s) to be electronically served at the party's email address as recorded on the date of service in the eFiling system on the date set forth above.

### **PARTIES SERVED CONVENTIONALLY BY FIRST CLASS MAIL:**

John A. Pinzelik  
[johnp@owens-law.com](mailto:johnp@owens-law.com)  
Owens/Pinzelik, P.C.  
4380 S.W. Macadam Ave., #590  
Portland, OR 97239  
*(Of Attorneys for Procopio Bancolitas & All Seasons)*

       By **mailing** full, true and correct copies thereof in sealed, first-class postage prepaid envelopes, addressed to the attorney(s) as shown above, at the last known office address of the attorney(s), and deposited with the United States Postal Service at Eugene, Oregon, on the date set forth above.

  X   By **emailing** a full, true and correct copy thereof, addressed to the attorney(s) as shown above, at the email address of the attorney(s) on the date set forth above.

Dated this 15<sup>th</sup> day of September, 2017.

LUVAAS COBB  
Of Attorneys for Plaintiff

  s/ Andrew M.J. Pinchin    
WILSON C. MUHLHEIM, OSB No. 681114  
[wcmuhlheim@luvaascobb.com](mailto:wcmuhlheim@luvaascobb.com)  
Andrew M.J. Pinchin, OSB #134548  
[apinchin@luvaascobb.com](mailto:apinchin@luvaascobb.com)  
Karen E. Anderson, OSB #162296  
[kanderson@luvaascobb.com](mailto:kanderson@luvaascobb.com)

CERTIFIED TRUE COPY  
BY [Signature]  
ATTORNEY AT LAW

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

PLUMAS BANK,

Plaintiff,

vs.

ALL SEASONS RCF, INC.; PROCOPIO F.  
BANCOLITA; ROSALINDA D.  
BANCOLITA; WASHINGTON MUTUAL  
BANK; ONPOINT COMMUNITY  
CREDIT UNION; WHISPERINGFIR,  
LLC; and OCCUPANTS OF THE  
PREMISES,

Defendants.

Case No. 16CV33586

**CORRECTED  
GENERAL JUDGMENT OF  
FORECLOSURE AND SALE**

THIS MATTER came before the court on plaintiff Plumas Bank's Motion for Entry of Judgment including Declaration of Lien. It appears from the record that defendants ALL SEASONRCF, Inc., Procopio F. Bancolita, Rosalinda D. Bancolita and Whisperingfir LLC were all duly served with plaintiff's Second Amended Complaint and Summons which was filed March 21, 2017; and that defendants Procopio F. Bancolita and Rosalinda D. Bancolita filed their Answer and Affirmative Defenses to this above-entitled action on May 5, 2017; and Whisperingfir LLC filed its Answer, Cross-Claim and Counterclaim to this above-entitled action on May 15, 2017;

It further appears that defendants Washington Mutual Bank and OnPoint Community Credit Union are no longer parties to this action;

It further appears that plaintiff filed a Motion for Summary Judgment against defendants ALL SEASONRCF, Inc., Procopio F. Bancolita, Rosalinda D. Bancolita and Whisperingfir LLC on June 7, 2017, and a hearing was held on July 10, 2017; and

1 The court having entered an Order of Summary Judgment for plaintiff and against  
2 defendants ALL SEASON RCF, Inc., Procopio F. Bancolita, Rosalinda D. Bancolita and  
3 Whisperingfir LLC on July 10, 2017;

4 **NOW THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED as follows:**

5 1. Plaintiff Plumas Bank is awarded judgment against defendants ALL SEASON  
6 RCF, Inc., Procopio F. Bancolita, Rosalinda D. Bancolita and Whisperingfir LLC as follows:

7 (A) As detailed in the Declaration of Debt Secured by Deed of Trust,  
8 defendants ALL SEASONS RCF, Inc., Procopio F. Bancolita, and Rosalinda D.  
9 Bancolita, and each of them, are indebted to plaintiff in the amount of \$371,954.93 plus  
10 the sum paid to secure and insure the Property, together with prejudgment interest  
11 accruing at a rate of six percent (6%) per annum from January 30, 2017, until March 21,  
12 2017, at a daily rate of \$61.14, thereafter accruing at a rate of six and one-quarter percent  
13 (6.25%) per annum at a daily rate of \$63.69, and late fees at the rate of five percent (5%)  
14 of each monthly installment not received within ten (10) days of the due date, plus all  
15 other sums paid by plaintiff and its receiver necessary to protect its interest in the  
16 Property, and for plaintiff's reasonable attorney fees and costs incurred, plus post-  
17 judgment interest on the entire sum at the rate of nine percent (9%) per annum from the  
18 date of entry of the judgment;

19 (B) The Installment Note of the Deed of Trust executed by defendants ALL  
20 SEASON RCF, Inc., Procopio F. Bancolita, and Rosalinda D. Bancolita on December  
21 12, 2014, and now being foreclosed upon, is a valid lien for the amount of plaintiff's  
22 judgment set forth in sub-paragraph A, above, against the real property situated in Lane  
23 County, Oregon, and described in Exhibit 1 attached hereto, (the "Property"), and this  
24 lien is senior to any interest of defendants, or any of them, in the Property; and

25 (C) Defendants ALL SEASON RCF, Inc., Procopio F. Bancolita, Rosalinda  
26 D. Bancolita and Whisperingfir LLC, and each of them, and all persons claiming through

1 those defendants, are forever foreclosed of all interest in the Property except for any right  
2 of redemption that those defendants may have.

3 2. Plaintiff's trust deed lien is foreclosed and the sheriff of Lane County is hereby  
4 ordered to sell the Property in the manner prescribed by law.

5 3. Plaintiff, or any other party to this action, may become the purchaser at the sale  
6 of the Property.

7 4. The purchaser of the Property is entitled to exclusive possession following the  
8 sale, and the purchaser shall be entitled to such remedies as are available at law to secure  
9 possession including, but not limited to, a writ of assistance if any party shall refuse to surrender  
10 possession of the Property to the purchaser.

11 5. For the purposes of ORS 88.050, the proceeds received from the sale shall be  
12 applied in the following order:

- 13 (A) First, toward the costs of sale;
- 14 (B) Second, toward satisfaction of the debt secured by plaintiff's deed of trust  
15 and this Judgment;
- 16 (C) Third, toward satisfaction of the debt secured by defendant Whisperingfir  
17 LLC's debt's lien as reduced to judgment in this case on July 12, 2017, in the amount of  
18 \$96,027.99 plus interest at \$13.15 per diem from May 5, 2016 until paid, plus costs,  
19 disbursements, attorney fees and post-judgment interest described in the limited  
20 judgment filed on such date; and
- 21 (D) Fourth, any surplus to the party or parties who may establish their right  
22 thereto.

23 6. If the proceeds of sale are not sufficient to satisfy plaintiff's judgment awarded  
24 herein against the defendants, then any such deficiency may be enforced by execution as  
25 provided by law.

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**Receiver Fees and Costs:**

|  |            |
|--|------------|
| Receiver monthly fee:<br>(\$400.00 per month, beginning<br>October 11, 2016) | \$3,600.00 |
| Receiver bond:   | \$100.00   |
| Receiver expenses for maintaining<br>property:                               | \$1,441.50 |
| <i>Total Receiver Fees and Costs:</i>  | \$5,141.50 |

**TOTAL AMOUNT DUE:** **\$422,452.77**

\*\*\*\*\*

**MONEY AWARD**

|   |   |
|---|---|
| Judgement Creditor Name and Address:                                  | Plumas Bank<br>P.O. Box 210<br>Quincy, CA 95971   |
| Judgment Creditor's Attorney's Name,<br>Address and Telephone Number: | Wilson C. Muhlheim<br>Luvaas Cobb<br>777 High Street, Suite 300<br>Eugene, OR 97401<br>541-484-9292   |
| Judgment Debtor Name, Address, Date<br>of Birth:                      | Procopio F. Bancolita<br>DOB:<br>Rosalinda D. Bancolita<br>DOB:<br>12439 S.E. Andorra Avenue<br>Happy Valley, OR 97086<br><br>ALL SEASONS RCF, Inc.<br>Registered Agent: Procopio F. Bancolita<br>12439 S.E. Andorra Avenue<br>Happy Valley, OR 97086 |
| Judgment Debtors' Attorney Name,<br>Address, and Telephone Number:    | None  |
| Others Entitled to Portion of Judgment:                               | Whisperingfir, LLC<br>12439 S.E. Andorra Avenue<br>Happy Valley, OR 97086<br>Eugene, Oregon   |
| Judgment Amount:  | \$387,946.95  |





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Prejudgment Interest: 6% interest per annum accruing from January 20, 2017 to March 21, 2017, and thereafter 6.25% interest per annum until judgment is entered.

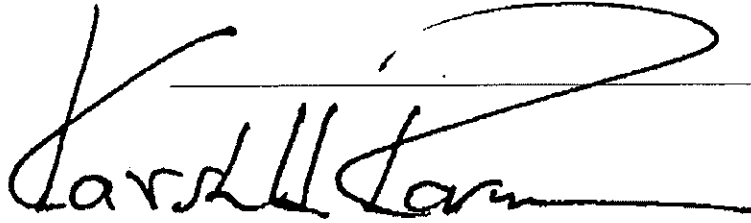
Post-Judgment Interest: 9% simple interest per annum

Attorney Fees and Costs: \$29,364.32

Receiver Fees and Costs: \$5,141.50

**TOTAL AMOUNT DUE: \$422,452.77**

Signed: 9/13/2017 12:33 PM



**Karsten H. Rasmussen, Circuit Court Judge**

*Submitted by:*  
Karen E. Anderson, OSB No. 162296  
[kanderson@luvaascobb.com](mailto:kanderson@luvaascobb.com)  
Wilson C. Muhlheim, OSB No. 681114  
[wcmuhlheim@luvaascobb.com](mailto:wcmuhlheim@luvaascobb.com)  
541-484-9292  
LUVAAAS COBB, Attorneys for Plaintiff Plumas Bank

**Exhibit "A"**

Real property in the County of Lane, State of Oregon, described as follows:

BEGINNING AT THE NORTHWEST CORNER OF THE INTERSECTION OF NINTH AVENUE WEST (NOW BROADWAY) AND MADISON STREET IN EUGENE, LANE COUNTY, OREGON; THENCE NORTH 89° 45' 16" WEST ALONG THE NORTH LINE OF SAID NINTH AVENUE WEST (NOW BROADWAY) 66.87 FEET; THENCE NORTH 0° 07' 29" EAST, 27.05 FEET; THENCE SOUTH 89° 45' 16" EAST, 0.22 FEET; THENCE NORTH 0° 07' 29" EAST 1.99 FEET; THENCE NORTH 89° 45' 16" WEST, 0.67 FEET; THENCE NORTH 0° 07' 29" EAST, 59.25 FEET; THENCE SOUTH 89° 45' 16" EAST, 0.67 FEET; THENCE NORTH 0° 07' 29" EAST, 48.69 FEET; THENCE NORTH 89° 45' 16" WEST, 0.19 FEET; THENCE NORTH 0° 07' 29" EAST 7.52 FEET, TO A POINT ON THE NORTH LINE OR ITS WESTERLY EXTENSION THEREOF OF TRACT OF LAND CONVEYED TO JOE KATS AND HAZEL KATS, BY INSTRUMENT RECORDED APRIL 18, 1962, RECEPTION NO. 66589, LANE COUNTY OREGON DEED RECORDS; THENCE EAST ALONG SAID NORTH LINE TO THE WEST LINE OF MADISON STREET; THENCE SOUTH ALONG SAID WEST LINE 145.0 FEET TO THE POINT OF BEGINNING, IN LANE COUNTY, OREGON.

NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 1, 2008.

PPB  
KB

PLEASE  
INITIAL

**CERTIFICATE OF COMPLIANCE WITH UTCR 5.100**

I hereby certify that I complied with UTCR 5.100 with respect to the Corrected Judgment to which this certificate is attached by doing the following:

The filing of this Corrected Judgment is due to the omission of Exhibit 1, the real property legal description. No changes have been made to the language in the original Judgment that was served on the parties previously.

On August 24, 2017, I served opposing parties with the original Judgment not less than 3 days prior to submission to the court.

This proposed Judgment 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 served a copy of the original Judgment on all parties entitled to service and:

No objection was 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.

After conferring about objections, \_\_\_\_\_ [role and name of opposing party] agreed to independently file any remaining objection.

DATED this 8<sup>th</sup> day of September, 2017.

LUVAAS COBB  
Of Attorneys for Plaintiff

By: \_\_\_\_\_

  
Andrew M.J. Pinchin, OSB No. 134548  
apinchin@luvaascobb.com  
Karen E. Anderson, OSB No. 162296  
E-mail: kanderson@luvaascobb.com