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

OCWEN LOAN SERVICING, LLC,

Plaintiff,

v.

TOM P. BERG AKA THOMAS PARRISH
BERG; JANNICE L. BERG AKA JANNICE
LEE BERG; CARTER-JONES COLLECTION
SERVICE, INC.; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 16CV23137

WRIT OF EXECUTION IN
FORECLOSURE

TO THE KLAMATH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on June 6, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

OCWEN LOAN SERVICING, LLC
c/o Bryan Kidder
Attorney for Plaintiff

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

With the adjudicated amount due of \$94,318.17, plus post judgment interest at the statutory rate of 9.0% per annum from June 6, 2017 to August 8, 2017 in the amount of \$1,465.16, and continuing with a per diem of \$23.26, currently totaling \$95,783.33.

1 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
2 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
3 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
4 about August 26, 2009, the date of the Deed of Trust, and also the interest that the Defendant had
5 thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: R612723 and
6 commonly known as: 2157 Reclamation Ave, Klamath Falls, OR 97601.

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

12
13 8/15/17

14  *John M. Powell, CA*
Amytamm Videnc

15 Dated: August 4, 2017 and submitted by:

16 **McCarthy & Holthus, LLP**

17 s/ Bryan Kidder

18 Bryan Kidder, OSB No. 140459

19 920 SW 3rd Ave, 1st Floor

20 Portland, OR 97204

21 Phone: (971) 201-3200

22 Fax: (971) 201-3202

23 bkidder@mccarthyholthus.com

24 Of Attorneys for Plaintiff

EXHIBIT 1

Lot 773, Block 106, Mills Addition to the City of Klamath Falls, in the County of Klamath, State of Oregon.

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

OCWEN LOAN SERVICING, LLC,

Plaintiff,

v.

TOM P. BERG AKA THOMAS PARRISH
BERG; JANNICE L. BERG AKA JANNICE
LEE BERG; CARTER-JONES COLLECTION
SERVICE, INC.; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 16CV23137

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

All defendants ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted 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 Klamath County, Oregon, and is commonly known as 2157 Reclamation Ave, Klamath Falls, OR 97601 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R612723.
- b. Plaintiff is entitled to enforce the note dated August 26, 2009 and made, delivered, and executed by TOM P. BERG AKA THOMAS PARRISH BERG and JANNICE L. BERG AKA

1 JANNICE LEE BERG to ALLY BANK CORP. F/K/A GMAC BANK in the amount of
2 \$86,487.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and
3 by indorsement set forth on the Note.

4 c. A deed of trust was made, executed, and delivered by Defendant TOM P. BERG AKA
5 THOMAS PARRISH BERG on or about August 26, 2009 (the "Deed of Trust"). The Deed
6 of Trust was recorded on September 21, 2009 as Instrument No. 2009-012442 in the official
7 records of Klamath County, Oregon. The Deed of Trust is a valid and perfected lien against
8 all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to
9 any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a
10 Sheriff's Deed.

11 d. The Borrower failed to make the payment that was due for August 1, 2015 and has not cured
12 the default. The amount of debt secured by the Deed of Trust that is now due and owing is
13 comprised of the following amounts (the "Amount Due"):

14	a) Unpaid principal balance:	\$77,388.19
15	b) Prejudgment interest accruing from	
16	7/1/2015 through 6/2/2017 and	
17	continuing until the entry of judgment	
	at the current Note rate of 5.5%:	\$8,181.74
18	c) Additional amounts due under the	\$5,094.50
19	terms of the loan:	
20	d) Attorney fees and costs:	\$3,568.74
21	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(b)):	
22	Total:	\$94,318.17

23
24 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
25 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
26 per annum.

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

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

5 g. All right, title and interest in the Subject Property that Defendants TOM P. BERG AKA
6 THOMAS PARRISH BERG and JANNICE L. BERG AKA JANNICE LEE BERG had as of
7 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
8 Klamath County Sheriff's Office in accordance with the process for sale upon execution, and
9 the proceeds of sale shall be applied:

10 1) First, to the costs of sale not incurred by Plaintiff;

11 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
12 entry of judgment through the date of the sale and any incurred costs of sale;

13 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
14 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
15 such party or parties as they may establish their right thereto.

16 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
17 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
18 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

4 l. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
5 Trust are as follows:

6 1) Defendant CARTER-JONES COLLECTION SERVICE, INC. may claim an interest
7 in Subject Property by virtue of a judgment entered on June 22, 2015 in the Circuit
8 Court of Klamath County, Case No. 1501749CV, in the amount of \$6,765.09.

Signed: 6/6/2017 03:07 PM

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Circuit Court Judge Marci W. Adkisson

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

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

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

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

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

22 No objection has been served on me.

23 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
24 indicated which objections remain unresolved.

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

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

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

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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: _____

Presented by:

McCarthy & Holthus, LLP

s/ Bryan Kidder 6/5/2017

Bryan Kidder, OSB No. 140459
920 SW 3rd Ave, 1st Floor
Portland, OR 97204
Phone: (971) 201-3200
Fax: (971) 201-3202
bkidder@mccarthyholthus.com
Of Attorneys for Plaintiff

EXHIBIT "1"

Legal Description

Lot 773, Block 106, Mills Addition to the City of Klamath Falls, in the County of Klamath, State of Oregon.