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

OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT, STATE OF OREGON,

Plaintiff,

v.

MARK SHAY AKA MARK ALAN SHAY;
MICHELLE J. SHAY AKA MICHELLE JANINE SHAY; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 15CV25425

WRIT OF EXECUTION IN FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on July 7, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT, STATE OF OREGON

c/o Jeremy Clifford
Attorney for Plaintiff

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

1 With the adjudicated amount due of \$239,752.11, plus post judgment interest at the statutory rate
2 of 9.0% per annum from 7/7/2017 to 8/10/2017 in the amount of \$2,009.98, and continuing with a
3 per diem of \$59.12, currently totaling \$241,762.09.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about May 6, 2008, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: R316713 and
9 commonly known as: 499 W Harbeck Road, Grants Pass, OR 97527.

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

15
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17 **AUG 17 2017**


18 Court Clerk



19 Dated: August 8, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Jeremy Clifford

22 Jeremy Clifford OSB No. 142987

23 920 SW 3rd Ave, 1st Floor

24 Portland, OR 97204

25 Phone: (971) 201-3200

26 Fax: (971) 201-3202

27 jclifford@mccarthymholthus.com

28 Of Attorneys for Plaintiff

Exhibit 1

LEGAL DESCRIPTION

PARCEL 1:

Beginning at a point where the South line of the South Highline Canal of the Grants Pass Irrigation District intersects the West line of Tract 43 of CHICAGO LAND CO. SUBDIVISION, Josephine County, Oregon; thence South along the West line of Tract 43 of Chicago Land Co. Subdivision, 150 feet; thence East 145.2 feet; thence North and parallel to the West line of said Tract 43 to the South line of the South Highline Canal; thence Westerly along the South line of said South Highline Canal to the point of beginning.

PARCEL 2:

Easements for the benefit of Parcel 1 as created by instrument recorded July 18, 1962 in Volume 221, Page 402 and July 25, 1974 in Volume 303, Page 235, Official Records of Josephine County, Oregon, for ingress and egress.

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

OREGON HOUSING AND COMMUNITY
SERVICES DEPARTMENT, STATE OF
OREGON.

Plaintiff,

v.

MARK SHAY AKA MARK ALAN SHAY;
MICHELLE J. SHAY AKA MICHELLE
JANINE SHAY; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 15CV25425

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

Defendants MARK SHAY AKA MARK ALAN SHAY; MICHELLE J. SHAY AKA MICHELLE JANINE SHAY, 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 Josephine County, Oregon, and is commonly known as 499 W Harbeck Road, Grants Pass, OR 97527 (the

1 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
2 APN/Parcel No. R316713.

3 b. Plaintiff is entitled to enforce the note dated May 6, 2008 and made, delivered, and executed
4 by MARK SHAY and MICHELLE J SHAY to GMAC MORTGAGE, LLC F/K/A GMAC
5 MORTGAGE CORPORATION in the amount of \$201,832.00 (the "Note"). The Note was
6 transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.

7 c. A deed of trust was made, executed, and delivered by Defendants MARK SHAY and
8 MICHELLE J SHAY on or about May 7, 2008 (the "Deed of Trust"). The Deed of Trust was
9 recorded on May 8, 2008 as Instrument No. 2008-007626 in the official records of Josephine
10 County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property
11 for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or
12 claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.

13 d. The Borrower failed to make the payment that was due for March 1, 2014 and has not cured
14 the default. The amount of debt secured by the Deed of Trust that is now due and owing is
15 comprised of the following amounts (the "Amount Due"):

16	a) Unpaid principal balance:	\$184,111.80
17	b) Prejudgment interest accruing from	
18	2/1/2014 through 7/5/2017 and	
19	continuing until the entry of	
	judgment at the current Note rate of	
	5.45%:	\$34,422.24
20	c) Additional amounts due under the	\$16,799.43
21	terms of the loan:	
22	d) Attorney fees and costs:	\$4,333.64
23	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(a)):	
24	Total:	\$239,752.11

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 9.00%
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 Defendants MARK SHAY and
9 MICHELLE J SHAY had as of the date of the Deed of Trust or thereafter acquired is hereby
10 ordered to be sold by the Josephine 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.

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.

Signed: 7/7/2017 05:24 AM

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9 **Circuit Court Judge Thomas M. Hull**

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

11
12 This proposed Judgment Of Foreclosure is ready for judicial signature because:

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

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

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

18 No objection has been served on me.

19 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.

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

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

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

24 Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
25 otherwise.

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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 5, 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
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