

Verified Correct Copy of Original 8/14/2017

15CV19903



Certified True Copy Of The Original
Dated This AUG 18 Day of 2017, 20
Trial Court Administrator
By: [Signature]

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

HSBC BANK USA, NATIONAL
ASSOCIATION, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
NOMURA HOME EQUITY LOAN, INC.,
ASSET-BACKED CERTIFICATES, SERIES
2005-FM1.

CASE NUMBER: 15CV19903

WRIT OF EXECUTION IN FORECLOSURE

Plaintiff,

vs.

MARIE MCDONALD, an individual;
KATHIE A. YOUNGBERG, an individual;
and all other persons, parties, or occupants
unknown claiming any legal or equitable
right, title, estate, lien, or interest in the real
property described in the complaint herein,
adverse to Plaintiff's title, or any cloud on
Plaintiff's title to the Property.

Defendants.

TO: THE SHERIFF OF JOSEPHINE COUNTY, OREGON:

1.

WHEREAS, on July 21, 2017, in the above-entitled Court, a General Judgment of
Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

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 upon (subject to

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1 redemption, if applicable), all of the interest which the Defendants MARIE MCDONALD, KATHIE
 2 A. YOUNGBERG, and ALL OTHER PERSONS, PARTIES, OR OCCUPANTS UNKNOWN
 3 ("Defendants") had on February 9, 2005, the date of the foreclosed Deed of Trust which was
 4 recorded on February 23, 2005, as Instrument No. 2005-004351 in the official records of the
 5 Josephine County Recorder's Office, and/or all of the interest which Defendants had thereafter, in
 6 the real property described in the Judgment to satisfy the Judgment as follows:

7
 8 **Lender's Principal Judgment:**

9 Unpaid Principal Balance:	\$151,006.56
10 Pre-Judgment Interest from October 1,	
11 2010 to July 14, 2017, the date set forth	
12 in the Judgment at variable rates, per	
13 annum, (\$34,6487 per diem):	\$84,605.12
14 Lender's Fees and Costs:	\$16,695.25
15 Attorney's Fees and Costs:	\$3,374.50
16	
17 Total Judgment Entered:	\$255,681.43

18
 19 **Additional Pre-Judgment Interest:**

20 Accrued Interest from July 15, 2017,	
21 the day after the date set forth in the	
22 Judgment through July 21, 2017, the	
23 date of entry of the Judgment, at	
24 variable rates, per annum (\$34.6487 per	
25 diem):	\$207.89

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**Total Judgment Entered Including
Additional Pre-Judgment**

Interest: \$255,889.32

3.

Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$255,889.32 at the legal rate of interest of 9% per annum, \$63.09 per diem, from July 22, 2017 to the date the real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of this Writ, Sheriff's fees and sale costs, and all other recovered costs pursuant to law.

4.

The real property subject to this writ of execution is commonly known as 1309 S.E ROGUE, GRANTS PASS, OR 97526 ("Property") and described in Exhibit "1" attached hereto.

5.

The Judgment Creditor's name and address is:

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED
CERTIFICATES, SERIES 2005-FM1
c/o Bank of America, N.A.
100 N. Tryon St.
Charlotte, North Carolina 28255

The Judgment Creditor's name and address for the purpose of this Writ is:

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED
CERTIFICATES, SERIES 2005-FM1
c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
2112 Business Center Drive
Irvine, CA 92612

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949-252-9400

THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy the Judgment, interest, fees, and costs.

MAKE RETURN HEREOF within 60 days after you receive this Writ.



L McCormick

AUG 14 2017 Josephine County Circuit Court Clerk

Submitted by:

Nathan F. Smith

Dated: 8/2/17

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNFROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@melaw.org

EXHIBIT 1

_ Verified Correct Copy of Original 8/14/2017 _

Commencing at the West Quarter corner of Section 21, Township 36 South, Range 5 West of the Willamette Meridian, Josephine County, Oregon; thence South $0^{\circ}26'$ East 100 feet to the true point of beginning; thence South $0^{\circ}36'$ East 75 feet; thence South $89^{\circ}56'$ East 135 feet; thence North $0^{\circ}28'$ West 75 feet; thence North $89^{\circ}56'$ West 135 feet to the true point of beginning.



Certified True Copy Of The Original
Dated This AUG 18 2017, 20
Trial Court Administrator
By: *Judith B...*

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

HSBC BANK USA, NATIONAL
ASSOCIATION, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
NOMURA HOME EQUITY LOAN, INC.,
ASSET-BACKED CERTIFICATES, SERIES
2005-FM1.

Plaintiff,

vs.

MARIE MCDONALD, an individual;
KATHIE A. YOUNGBERG, an individual;
and all other persons, parties, or occupants
unknown claiming any legal or equitable
right, title, estate, lien, or interest in the real
property described in the complaint herein,
adverse to Plaintiff's title, or any cloud on
Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 15CV19903

GENERAL JUDGMENT OF
FORECLOSURE AGAINST:

1. MARIE MCDONALD,
2. KATHIE A. YOUNGBERG, AND
3. ALL OTHER PERSONS,
PARTIES, OR OCCUPANTS UNKNOWN

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-FM1 ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants MARIE MCDONALD, KATHIE A. YOUNGBERG, and ALL OTHER

1 PERSONS, PARTIES, OR OCCUPANTS UNKNOWN ("Defendants") were duly served with the
 2 Summons and Complaint as required by law; that Defendants failed to appear, that an order of
 3 default has been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry
 4 of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly known as
 5 1309 S.E. ROGUE, GRANTS PASS, OR 97526 ("Property") and extinguishing any and all interest
 6 of the Defendants in the Property.

2.

7
 8 The Court being fully advised, it is hereby
 9 ORDERED AND ADJUDGED that:

3.

10
 11 Plaintiff is the holder of that certain adjustable rate note ("Note"), dated February 9, 2005, in
 12 the amount of \$144,000.00, and executed by MARIE MCDONALD.

4.

13
 14 The Note is secured by that certain deed of trust ("Deed of Trust") dated February 9, 2005
 15 and executed by MARIE MCDONALD and KATHIE A. YOUNGBERG. The Deed of Trust was
 16 recorded on February 23, 2005 under the recording number 2005-004351 of the Official Records of
 17 Josephine County, Oregon, against the Property, which is legally described in Exhibit "1" attached
 18 hereto ("Property") and constitutes a valid lien against the Property.

5.

19
 20 The terms of the Note and Deed of Trust are in breach, therefore, Plaintiff has now declared
 21 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

6.

22
 23 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
 24 interest, lien, or claim of the Defendants and any other party in the Property, which are hereby
 25 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants
 26 may be entitled under Oregon law.

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7.

A judgment of foreclosure in the amount of \$255,681.43 shall be granted in favor of Plaintiff, and its successors and/or assigns, as further described below in the Declaration of Amount Owed – Not a Money Award (“Amount Owed”).

8.

The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the satisfaction of Plaintiff’s Amount Owed herein; and the surplus, if any to the Clerk of the Court to be disbursed to such party or parties as may establish their right thereto.

9.

Plaintiff is entitled to recover its reasonable attorney’s fees and all reasonable and necessary costs and expenses incurred to enforcing the Note and Deed of Trust.

10.

Any increased interest or any such additional amounts as Plaintiff may advance for taxes, assessments, municipal charges, and such other items as may constitute liens on the Property, together with insurance and repairs necessary to prevent the impairment of the Property, together with interest thereon from the date of payment may also be added to the Amount Owed and paid from the proceeds from the sale of the Property.

11.

Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and every portion thereof, excepting only any statutory right of redemption provided by the laws of the State of Oregon.

12.

Defendants MARIE MCDONALD and KATHIE A. YOUNGBERG are not entitled to a homestead exemption in the Property.

13.

Plaintiff may become purchaser at the Sheriff’s Sale of the Property and may bid up to the

1 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

2 14.

3 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
4 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
5 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
6 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
7 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

8 15.

9 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
10 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
11 obtain possession of the Property.

12 16.

13 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
14 hereinafter described as the Amount Owed.

15 17.

16 This suit does not constitute an attempt to collect the debt against Defendants MARIE
17 MCDONALD, KATHIE A. YOUNGBER, and ALL OTHER PERSONS, PARTIES, OR
18 OCCUPANTS UNKNOWN. Rather, it is a suit to execute upon the Property as security for the
19 Amount Owed.

20 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**
21 **(Pursuant to Senate Bill 368)**

22 18.

23 Under the terms of the Deed of Trust and the Note dated February 9, 2005, in the original
24 principal amount of \$144,000.00, there is now due and owing the following amounts, to be
25 hereinafter described as the Amount Due:

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DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

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1. Judgment Creditor: HSBC BANK USA, NATIONAL
Address: ASSOCIATION, AS TRUSTEE FOR THE
 CERTIFICATEHOLDERS OF THE NOMURA
 HOME EQUITY LOAN, INC., ASSET-
 BACKED CERTIFICATES, SERIES 2005-
 FM1
 c/o MALCOLM ♦ CISNEROS,
 A Law Corporation
 2112 Business Center Drive, 2nd Floor
 Irvine, California 92612

Judgment Attorney: Nathan E. Smith
Address: MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, 2nd Floor
 Irvine, California 92612

Telephone Number: (949) 252-9400

**2. Persons or Public Bodies Entitled to
 a Portion the Judgment:** N/A

3. Judgment Amount: \$252,306.93

4. Pre-Judgment Interest: Simple interest to accrue on \$151,006.56 from
 July 15, 2017 to the date the Judgment is
 entered into the Court's register at 8.375% per
 annum, \$34.6487 per diem.

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5. Post-Judgment Interest:

Simple interest to accrue on \$255,681.43 plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.

6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$3,374.50 in attorney's fees and costs is made.

Signed: 7/21/2017 02:48 PM



Circuit Court Judge Pat Wolke

Submitted by:



Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

Dated:

7/19/17

EXHIBIT 1

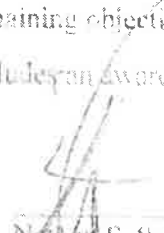
Commencing at the West Quarter corner of Section 21, Township 36 South, Range 6 West of the Willamette Meridian, Josephine County, Oregon; thence South 0° 26' East 100 feet to the true point of beginning; thence South 0° 36' East 75 feet; thence South 89° 56' East 135 feet; thence North 0° 26' West 75 feet, thence North 89° 56' West 135 feet to the true point of beginning.

CERTIFICATE OF READINESS

This proposed Order or Judgment is ready for judicial signature because:

- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule or otherwise.
- 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.
- 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.
 - After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
- This is a proposed judgment that includes an award of punitive damages.

DATED July 19, 2017

By: 
 Nathan F. Smith, OSB #120112
 Attorney for Plaintiff
 MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, Second Floor
 Irvine, California 92612
 (949) 252-9400 (TELEPHONE)
 (949) 252-1032 (FAX)