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

FEDERAL NATIONAL MORTGAGE ASSOCIATION (“FANNIE MAE”), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES OF JIM D. KAHLEY; DIXIE L. KAHLEY; HSBC BANK NEVADA; MIDLAND FUNDING, LLC; CAPITAL ONE BANK; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV28812

WRIT OF EXECUTION IN FORECLOSURE

TO THE KLAMATH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 7/14/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

FEDERAL NATIONAL MORTGAGE ASSOCIATION (“FANNIE MAE”), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
c/o Michael Scott
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$117,990.69, plus post judgment interest at the statutory rate
2 of 9.0% per annum from 7/14/2017 to 8/28/2017 in the amount of \$1,309.21, and continuing
3 with a per diem of \$29.09, currently totaling \$119,299.90.

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 5/18/2007, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described as follows:

9 *See attached Exhibit 1*

10 and commonly known as: 14106 Ravenwood Dr, Klamath Falls, OR 97601-9200.

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

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1 Dated: August 29, 2017 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Michael Scott

4 Michael Scott OSB No. 973947

5 920 SW 3rd Ave, 1st Floor

6 Portland, OR 97204

7 Phone: (971) 201-3200

8 Fax: (971) 201-3202

9 mscott@mccarthyholthus.com

10 Of Attorneys for Plaintiff

EXHIBIT 1

Lot 29 in Block 3 of TRACT 1046, ROUND LAKE ESTATES, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon.

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

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES OF JIM D. KAHLEY; DIXIE L. KAHLEY; HSBC BANK NEVADA; MIDLAND FUNDING, LLC; CAPITAL ONE BANK; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV28812

GENERAL JUDGMENT OF FORECLOSURE

1.

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

- a. 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 14106 Ravenwood Dr, Klamath Falls, OR 97601-9200

1 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
2 APN/Parcel No. R494218.

3 b. Plaintiff is entitled to enforce the note dated May 18, 2007 and made, delivered, and executed
4 by JIM D. KAHLEY and DIXIE L. KAHLEY to COUNTRYWIDE HOME LOANS, INC.
5 in the amount of \$94,250.00 (the "Note"). The Note was transferred to Plaintiff by delivery
6 of possession and by indorsement set forth on the Note.

7 c. A deed of trust was made, executed, and delivered by Borrowers JIM D. KAHLEY and
8 DIXIE L. KAHLEY on or about May 18, 2007 (the "Deed of Trust"). The Deed of Trust
9 was recorded on May 23, 2007 as Instrument No. 2007-009348 in the official records of
10 Klamath County, Oregon. The Deed of Trust is a valid and perfected lien against all of the
11 Property for and securing the Amount Due. The lien of the Plaintiff is superior to any
12 interest, lien, or claim of the Defendants and shall remain in effect until issuance of a
13 Sheriff's Deed.

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

- 17 a) Unpaid principal balance: \$87,803.43
- 18 b) Prejudgment interest accruing from
19 3/1/2014 through 7/7/2017 and
20 continuing until the entry of
judgment at the current Note rate of 4.625%: \$13,605.24
- 21 c) Additional amounts due under the terms of the loan: \$11,534.95
- 22 d) Attorney fees and costs: \$4,962.07
- 23 e) Prevailing party fee (ORS 20.190
24 (1)(a)): \$85.00
- 25 **Total: \$117,990.69**

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 THE UNKNOWN HEIRS
9 AND DEVISEES OF JIM D. KAHLEY and DIXIE L. KAHLEY had as of the date of the
10 Deed of Trust or thereafter acquired is hereby ordered to be sold by the Klamath County
11 Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of
12 sale shall be applied:

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

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

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

19 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
20 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
21 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

6 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
7 Deed of Trust are as follows:

8 1) Defendant HSBC BANK NEVADA may claim a junior interest in Subject Property
9 by virtue of a judgment entered on February 16, 2010 as Case No. 9095053CV in the
10 official records of Klamath County, Oregon.

11 2) Defendant MIDLAND FUNDING, LLC may claim a junior interest in Subject
12 Property by virtue of a judgments entered, including Case No. 1103841CV on
13 January 4, 2012 in the official records of Klamath County, Oregon, Case
14 No. 1301100CV on May 17, 2012 in the official records of Klamath County, Oregon,
15 and Case No. 1401886CV on August 4, 2012 in the official records of Klamath
16 County, Oregon.

17 3) Defendant CAPITAL ONE BANK may claim a junior interest in Subject Property by
18 virtue of a judgment entered on August 21, 2012 as Case No. 1202038V in the
19 official records of Klamath County, Oregon.
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Signed, 7/13/2017 02:34 PM

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25 **Circuit Court Judge Roxanne Osborne**

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

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

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

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

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

8 No objection has been served on me.

9 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.

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

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

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

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

15 This is a proposed judgment that includes an award of punitive damages and notice
16 has been served on the Director of the Crime Victims' Assistance Section as required
by subsection (4) of this rule.

17 Other: _____

18
19 Dated: July 11, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Michael S. Scott

22 _____
Robert Hakari OSB No. 114082
X Michael S. Scott OSB No. 973947
920 SW 3rd Ave, 1st Floor
23 Portland, OR 97204
Phone: (971) 201-3200
24 Fax: (971) 201-3202
mscott@mccarthyholthus.com
25 Of Attorneys for Plaintiff

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Lot 29 in Block 3 of TRACT 1046, ROUND LAKE ESTATES, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon.