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

WILMINGTON SAVINGS FUND SOCIETY,
FSB, D/B/A CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR
PRETIUM MORTGAGE ACQUISITION
TRUST,

Plaintiff,

vs.

JAMES DANIEL HARRIS AKA JAMES D.
HARRIS AKA DAN HARRIS; STATE OF
OREGON; QUICK COLLECT, INC.; RAY
KLEIN, INC.; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 16CV38515

WRIT OF EXECUTION IN
FORECLOSURE

TO THE DESCHUTES COUNTY SHERIFF:

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

WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST,
NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE
ACQUISITION TRUST
c/o Michael Scott
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 The adjudicated amount due is \$575,652.89, plus post judgment interest at the statutory rate of
2 9.0% per annum from March 7, 2017 to October 23, 2017 in the amount of \$32,646.62, and
3 continuing with a per diem of \$141.94, currently totaling \$608,299.51.

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 August 22, 2007, 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 #: 111247 and
9 commonly known as: 60207 Cheyenne Road , Bend , OR 97702.

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
16 **DATED:** ____ day of _____, 20 ____.

Signed: 11/1/2017 11:48 AM


Title _____
Trial Court Administrator Jeffrey E. Hall



17
18
19 By: _____

1 Dated: October 26, 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 SEVENTY-SEVEN (77), BLOCK "S", DESCHUTES RIVER WOODS, DESCHUTES COUNTY,
OREGON

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

WILMINGTON SAVINGS FUND SOCIETY,
FSB, D/B/A CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR
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Plaintiff,

vs.

JAMES DANIEL HARRIS AKA JAMES D.
HARRIS AKA DAN HARRIS; STATE OF
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KLEIN, INC.; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: 16CV38515

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

a. Defendants JAMES DANIEL HARRIS AKA JAMES D. HARRIS AKA DAN HARRIS; STATE OF OREGON; QUICK COLLECT, INC.; RAY KLEIN, INC., 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; now therefore,

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 Deschutes County, Oregon, and is commonly known as 60207 Cheyenne Road , Bend , OR 97702 (the "Subject

1 Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
2 111247.

3 b. Plaintiff is entitled to enforce the note dated 8/22/2007 and made, delivered, and executed by
4 James Daniel Harris to Plaza Home Mortgage, Inc. in the amount of \$341,000.00 (the
5 “Note”). The Note was transferred to Plaintiff by delivery of possession and by indorsement
6 set forth on the Note.

7 c. A deed of trust was made, executed, and delivered by Defendant James Daniel Harris on or
8 about 8/22/2007 (the “Deed of Trust”). The Deed of Trust was recorded on 8/28/2007 as
9 Instrument No. 2007-47202 in the official records of Deschutes County, Oregon. The Deed
10 of Trust is a valid and perfected lien against all of the Property for and securing the Amount
11 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and
12 shall remain in effect until issuance of a Sheriff’s Deed.

13 d. The Borrower failed to make the payment that was due for 10/1/2008 and has not cured the
14 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:	\$338,007.03
17	b) Prejudgment interest accruing from	\$211,982.27
18	9/1/2008 through 3/1/2017 and	
19	continuing until the entry of judgment	
20	at the current Note rate of 7.7500%:	
21	c) Additional amounts due under the	\$21,496.77
22	terms of the loan:	
23	d) Attorney fees and costs:	\$4,081.82
24	e) Prevailing party fee (ORS 20.190	\$85.00
25	(1)(b)):	
26	Total:	\$575,652.89

27 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
28 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
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 Defendant James Daniel Harris had as
6 of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
7 Deschutes County Sheriff's Office in accordance with the process for sale upon execution,
8 and the proceeds of sale shall be applied:

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

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

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

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

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

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

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

1 I. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
2 Trust are as follows:

- 3 1) Defendant STATE OF OREGON may claim a junior interest in Subject Property by
4 virtue of a judgment lien entered on 01/15/2010 as Case No. 1079309 in the Circuit
5 Court for Deschutes County, Oregon.
- 6 2) Defendant QUICK COLLECT, INC. may claim a junior interest in Subject Property
7 by virtue of a judgment lien entered on 08/31/2010 as Case No. TR649450
8 (SC101579) in the Circuit Court for Deschutes County, Oregon.
- 9 3) Defendant RAY KLEIN, INC. may claim a junior interest in Subject Property by
10 virtue of a judgment lien entered on 02/03/2015 as Case No. SC140690 in the Circuit
11 Court for Deschutes County, Oregon.
- 12 4) Defendant STA TE OF OREGON may also claim a junior interest in Subject
13 Property by virtue of Tax warrant recorded on 03/14/2016 as Instrument No. 2016-
14 09552 in the official records of Deschutes County, Oregon.

Signed: 3/2/2017 04:17 PM



Circuit Court Judge Stephen P. Forte

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

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

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

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

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

2 No objection has been served on me.

3 I received objections that I could not resolve with the opposing party despite
4 reasonable efforts to do so. I have filed a copy of the objections I received and
5 indicated which objections remain unresolved.

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

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

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

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

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

15 Other: _____

16 Dated: March 1, 2017

17 Presented by:

18 **McCarthy & Holthus, LLP**

19 s/ Jeremy Clifford

20 Casey C. Pence, OSB No. 975271

21 Jeremy Clifford, OSB No. 142987

22 920 SW 3rd Ave, 1st Floor

23 Portland, OR 97204

24 Phone: (971) 201-3200

25 Fax: (971) 201-3202

26 jclifford@mccarthyholthus.com

27 Of Attorneys for Plaintiff

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