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CLACKAMAS COUNTY SHERIFF

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

WELLS FARGO BANK, N.A. AS TRUSTEE
FOR FIRST FRANKLIN MORTGAGE
LOAN TRUST 2001-FF2, ASSET-BACKED
CERTIFICATES, SERIES 2001-FF2,

Plaintiff,

v.

EMERY L STEEL aka EMERY L STEEL SR.;
FIRST FRANKLIN FINANCIAL
CORPORATION; ATLAS FINANCIAL
SERVICES; OCCUPANTS OF THE
PROPERTY,

Defendants.

Case No.: CV15040082

WRIT OF EXECUTION IN
FORECLOSURE

TO THE CLACKAMAS COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 14, 2016. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Judgment Creditor:

WELLS FARGO BANK, N.A. AS TRUSTEE FOR FIRST FRANKLIN MORTGAGE
LOAN TRUST 2001-FF2, ASSET-BACKED CERTIFICATES, SERIES 2001-FF2
c/o Bryan Kidder
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$398,487.14, plus post judgment interest at the statutory rate
2 of 9.0% per annum from April 14, 2016 to October 3, 2017 in the amount of \$52,764.06, and
3 continuing with a per diem of \$98.26, currently totaling \$451,251.20.

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 September 19, 2001, the date of the Deed of Trust, and also the interest that the Defendant
8 had thereafter, in the real property described in attached *Exhibit 1*, APN/Parcel # 01080886, and
9 commonly known as (street address): 30578 S. Meridian Road, Hubbard, OR 97032.

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 **DATED:** 26 day of October, 2017.

16 Clerk/Judicial Assistant
17 Title

18 By: Wendy Watson



19 DATED October 2, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 Bryan Kidder

22 Bryan Kidder, OSB No. 140459
23 920 SW 3rd Ave, 1st Floor
24 Portland, OR 97204
25 Phone: (971) 201-3200
26 Fax: (971) 201-3202
27 bkidder@mccarthyholthus.com
28 Of Attorneys for Plaintiff

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT.
IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT,
PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING
ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST
THIS WRIT BY FILING A CLAIM OF EXEMPTION.

Court Administrator relies on the information
provided by the person seeking issuance of
this writ of execution and is not liable for any
errors or omissions in the information

EXHIBIT “1”

LEGAL DESCRIPTION

PARCEL I:

Part of the East half of Section 1, Township 5 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a railroad spike in the center of John S. Owings Road in Section 1, Township 5 South, Range 1 West of the Willamette Meridian, which point is 258.58 feet West from the Northeast corner of Government Lot 3 of said Section 1, as shown in private survey #1266, Clackamas County Records; thence North 18°28' East along said center line 1,384.22 feet to the true point of beginning being the intersection of said center line with the center line of a County Road, as said County Road was traveled on June 15, 1968; thence South 89°53' East 271.10 feet along the center line of said County Road; thence North 8°37' East 311.98 feet to an iron pipe; thence North 78°30' West 205.41 feet to the center line of the John Owings Road; thence South 18°28' West along the center line of said Owings Road 367.8 feet to the true point of beginning.

EXCEPTING that portion of the above described property lying within the County Roads.

PARCEL II:

Beginning at a railroad spike in the center line of John S. Owings Road in Section 1, Township 5 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, which point is 258.58 feet West from the Northeast corner of Government Lot 3, Section 1, as shown in Survey #1266, Clackamas County Records; thence North 18°28' East along said center line 1752.02 feet to the true point of beginning; thence North 18°28' East along said center line 520.00 feet; thence South 71°32' East 230.00 feet; thence South 12°03'53" West 767.00 feet to the County Road as travelled; thence North 89°53' West 65.0 feet; thence North 08°37' East 291.86 feet; thence North 78°30' West 205.41 feet to a point in the John S. Owings Road and the true point of beginning.

EXCEPTING that portion of the above described property lying within the County Road.

PARCEL III:

Part of the Northeast one-quarter of Section 1, Township 5 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a railroad spike in the center line of John S. Owings Road in Section 1, Township 5 South, Range 1 West of the Willamette Meridian, which point is 258.58 feet West from the Northeast corner of Government Lot 3, Section 1 as shown in Survey No. 1266, Clackamas County Records; thence North 18°28' East along said center line 2,272.02 feet to a point, said point being the Northwest corner of tract of land conveyed to Richard Louis Petersen, et ux, by Deed recorded July 6, 1973 as Recorder's Fee No. 73-21301, Clackamas County Records; thence South 71°32' East along the North line of said Petersen Tract, 230 feet to the true point of beginning of the tract herein to be described; thence continuing South 71°32' East 65.0 feet to a point; thence South 18°28' West, 333 feet to a point; thence North 71°32' West 27.64 feet to a point on the Easterly line of the aforementioned Richard Petersen Tract; thence North 12°03'53" East on the Easterly line of said Petersen Tract, 335.09 feet to the true point of beginning.

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COPY

APR 18 2016

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

WELLS FARGO BANK, N.A. AS TRUSTEE
FOR FIRST FRANKLIN MORTGAGE LOAN
TRUST 2001-FF2, ASSET-BACKED
CERTIFICATES, SERIES 2001-FF2,

Case No.: CV15040082

Plaintiff,

GENERAL JUDGMENT OF
FORECLOSURE

vs.

EMERY L STEEL AKA EMERY L STEEL
SR.; FIRST FRANKLIN FINANCIAL
CORPORATION; ATLAS FINANCIAL
SERVICES; OCCUPANTS OF THE
PROPERTY

Defendants.

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants EMERY L STEEL AKA EMERY L STEEL SR.; FIRST FRANKLIN FINANCIAL CORPORATION; ATLAS FINANCIAL SERVICES; OCCUPANTS OF THE PROPERTY ("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 Clackamas County, Oregon, and is commonly known as 30578 S. Meridian Road, Hubbard, OR 97032

1 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having
2 APN/Parcel # 01080886.

- 3 b. Plaintiff is the owner and holder of the beneficial interest in a deed of trust and original note
4 dated 9/19/2001 and made, delivered, and executed by Emery L Steel to First Franklin
5 Financial Corporation in the amount of \$228,250.00 (the "Note"). The Note was transferred
6 to Plaintiff by delivery of possession and by indorsement set forth on the Note. A true and
7 correct copy of the Note was attached to the complaint as Exhibit 2.
- 8 c. A deed of trust was made, executed, and delivered by Defendants Emery L Steel to First
9 Franklin Financial Corporation on or about 9/24/2001 (the "Deed of Trust"). The Deed of
10 Trust was recorded on 9/26/2001 as Instrument No. 2001-078755 in the official records of
11 Clackamas County, Oregon. The Deed of Trust is a valid and perfected lien against all of the
12 Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest,
13 lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- 14 d. The amount of debt secured by the Deed of Trust that is now due and owing is \$398,487.14
15 (the "Amount Due"). The Amount Due is comprised of the following amounts:

- 16 a) Unpaid principal balance: \$204,066.48
- 17 b) Prejudgment interest accruing from \$92,974.98
18 9/1/2015 through 1/8/2016 and
19 continuing until the entry of judgment
20 at the current Note rate of 8.5%:
- 21 c) Additional amounts due under the \$97,496.18
22 terms of the loan:
- 23 d) Attorney fees and costs: \$3,949.50

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% per
26 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 is not entitled to a homestead exception as against Plaintiff's judgment.
- 5 g. All right, title and interest in the Subject Property that Defendants Emery L Steel had as of
6 the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the
7 Clackamas 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.
- 28

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 First Franklin Financial Corporation may claim a junior interest in Subject
4 Property by virtue of a deed of trust recorded 9/26/2001 as Instrument no. 2001-
5 078756 in the official records of Clackamas County, Oregon, securing a promissory
6 note.

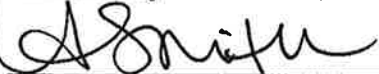
7 2) Defendant Atlas Financial Services may claim an interest in Subject property by
8 virtue of a judgment entered on 6/28/2012 in the circuit Court of Clackamas County,
9 Case no. SC120021.

10 Dated: 6 day of April, 2016

15 /s/Michael C. Wetzel
16 JUDGE

16 Presented by:

17 **McCarthy & Holthus, LLP**

18 

19 Andreanna C. Smith, OSB No. 131336
20 920 SW 3rd Ave, 1st Floor
21 Portland, OR 97204
22 Phone: (855) 809-3977
23 Fax: (971) 201-3202
24 Email: ansmith@mccarthyholthus.com
25 Of Attorneys for Plaintiff

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