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122340
JGGM
Judgment - General Creates Lien
840384



FILED
DEC 05 2012
Time:
Clatsop Circuit Court

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

KEYBANK NATIONAL ASSOCIATION,
national banking association,

Plaintiff,

v.

FREDERICK C. SMITH, D.M.D and JANET
L. SMITH,

Defendants.

Case No. 12-2340

GENERAL JUDGMENT OF FORECLOSURE
AND MONEY AWARD

Based upon the Order of Default entered in this case and pursuant to the Motion for General Judgment of Foreclosure and Money Award, the Declaration of Brent D. Thompson, and Plaintiff's Statement of Attorney Fees, Costs and Disbursements,

IT IS HEREBY ORDERED, ADJUDGED, AND DECLARED that plaintiff KeyBank National Association shall have judgment as follows:

1. On its First Claim for Relief, a judgment and money award against defendants Frederick C. Smith, D.M.D. ("F. Smith") and Janet L. Smith ("J. Smith") (collectively "Defendants") in the principal amount of \$333,920.32, plus interest in the amount of \$591.88 through June 13, 2012, and accruing from June 14, 2012, thereafter at a rate of 10.090 percent per annum until paid, plus fees in the amount of \$328.54;

2. On its Second Claim for Relief, a judgment as follows:

i.) That the Deed of Trust recorded on January 5, 2007, recording instrument number 200700184, in the official records of Clatsop County, Oregon ("Deed of Trust"), shall constitute a valid, first, prior, and subsisting lien against the following described real

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1 property:

2 Located in Clatsop County, State of Oregon:

3 Lots 5 and 6, Block 60 of the Town (now city) or
4 Astoria, as laid out and recorded by John McClure
5 in the City of Astoria, County of Clatsop, State of
6 Oregon.

7 EXCEPT FOR dedication of the South five feet of
8 said Lots 5 and 6, and the East five feet of said Lot
9 5, to the City of Astoria and the public for street
10 purposes.

11 The Real Property or its address is commonly
12 known as 375-395 11th Street, Astoria, OR 97103.
13 The Real Property tax identification number is 0101
14 80908CB 09600 #22578.

15 (the "Property"), and that said lien be declared prior and superior to any right, title,
16 interest, lien, or claim of the defendants herein, or any of them, in or to the Property;

17 ii.) That the lien of the Deed of Trust be foreclosed and the Property
18 be sold by the Sheriff of Clatsop County in the manner prescribed by law and in
19 accordance with the practice of this Court to satisfy the claim of KeyBank, and
20 that the proceeds derived from the sale of the Property be applied first to the costs
21 of sale, then to the payment of the total amounts adjudged due to KeyBank under
22 this judgment, and the balance, if any, be paid to the clerk of this court and
23 distributed to such party or parties as may establish their rights thereto. In the
24 event that the proceeds of the sale are insufficient to satisfy the amount of
25 KeyBank's lien under the Deed of Trust, a deficiency judgment be entered against
26 F. Smith;

iii.) That F. Smith, and all persons claiming by, through, or under him,
whether purchasers, encumbrances, or otherwise, be barred and foreclosed of all right,
title, estate, claim, or interest of every kind and nature in and to the Property and every
part and parcel thereof, including the tenements, appurtenances, and fixtures, if any,

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1 thereunto belonging or appertaining, save only such statutory right of redemption as F.
2 Smith may have in and to the Property; and

3 iv.) That KeyBank may become a purchaser of the Property, or any part or
4 parts thereof, at said sale; that KeyBank may credit bid up to the aggregate amount of its
5 judgment at such sale without advancing any cash; that, upon the sale, the purchaser or
6 purchasers of the Property shall be let into possession, and that, if any person or persons
7 in possession shall refuse to surrender possession to purchaser or purchasers upon
8 confirmation of such sale and demand for possession, such purchaser or purchasers shall
9 have the benefits of such remedies as the law may afford to secure such possession,
10 including the extraordinary writ of assistance;

11 3. On its Third Claim for Relief, a judgment and money award against J. Smith in
12 the principal amount of \$333,920.32, plus interest in the amount of \$591.88 through June 13,
13 2012, and accruing from June 14, 2012, thereafter at a rate of 10.090 percent per annum until
14 paid, plus fees in the amount of \$328.54

15 4. A judgment and money award against Defendants in the amount of \$14,409.22,
16 representing plaintiff's costs and disbursements incurred in this matter and costs incurred in the
17 enforcement of the judgment as well as the prevailing party fee. Post-judgment interest accrues
18 on plaintiff's costs of \$14,409.22, at the rate of nine percent (9%) per annum from the date of
19 entry of judgment, until fully paid. Plaintiff is entitled to the prevailing party fee of \$275.00
20 under ORS 20.190(2)(a)(A).

21 **MONEY AWARD**

22
23 1. Judgment Creditor: Columbia State Bank
24 1301 A Street
25 P.O. Box 2156
26 Tacoma, WA 98401

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2. Attorney for Judgment Creditor: Craig G. Russillo, OSB #973875
Andrea M. Barton, OSB #092760
Schwabe, Williamson & Wyatt, P.C.
1211 S.W. Fifth Avenue, Suite 1900
Portland, Oregon 97204
(503) 222-9981

3. Judgment Debtor No. 1: Frederick C. Smith, D.M.D.
640 Kensington Avenue
Astoria, OR 97103

Year of Birth: Unknown

Social Security Number: xxx-xx-4292

Driver's License No. and Issuing State: Unknown

Judgment Debtor No. 2: Janet L. Smith
640 Kensington Avenue
Astoria, OR 97103

Year of Birth: Unknown

Social Security Number: xxx-xx-8986

Driver's License No. and Issuing State: Unknown

4. Attorney for Judgment Debtors 1 and 2: Matthew A. Arbaugh
Field Jerger LLP
621 SW Morrison, Suite 1225
Portland, OR 97205

5. The name of any person or public body, as defined in ORS 174.109, other than the judgment creditor's attorney, that is known by the judgment creditor to be entitled to any portion of the money award: None

6. Principal Amount of Judgment against Judgment Debtors 1 and 2: \$333,920.32, plus fees in the amount of \$328.54, for a total principal of \$334,248.86.

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- 7. Pre-Judgment Interest: Accrued simple interest at the rate of 10.090% per annum through June 13, 2012, in the amount of \$591.88, plus simple interest accruing on Item 6 at the rate of 10.090% per annum from June 14, 2012, until the date of entry of judgment.

- 8. Post-Judgment Interest: Simple interest accruing on Item 6 and Item 7 at the rate of 10.090% per annum from the date of entry of judgment, until paid in full.

- 9. Attorney Fees: \$9,550.00

- 10. Costs and Disbursements: \$4,859.22

- 11. Post-Judgment Interest: Simple interest accruing on Item 9 and Item 10 at the rate of 9% per annum from date of entry of judgment, until fully paid

Dated this 5 day of December, 2012.

Paula Mounbini
CIRCUIT COURT JUDGE

SUBMITTED BY:

SCHWABE, WILLIAMSON & WYATT, P.C.

By Craig G. Russillo
Craig G. Russillo, OSB #973875
crussillo@schwabe.com
Andrea M. Barton, OSB #092760
abarton@schwabe.com
Facsimile: 503.796.2900
Of Attorneys for Plaintiff, KeyBank National Association

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CERTIFICATE OF SERVICE

I hereby certify that on 28th day of November, 2012, I served the following GENERAL JUDGMENT OF FORECLOSURE AND MONEY AWARD on:

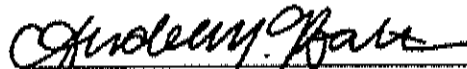
Matthew A. Arbaugh
Field Jerger LLP
621 SW Morrison, Suite 1225
Portland, OR 97205

by mailing a true and correct copy thereof by U.S. Postal Service, certified mail, return receipt requested, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth above;

by causing a true and correct copy thereof to be hand-delivered to the above-mentioned attorneys at each attorney's last-known office address on the date set forth above;

by sending a true and correct copy thereof by overnight courier, addressed to each attorney's last known office address on the date set forth above;

by faxing a true and correct copy thereof to each attorney at each attorney's last-known facsimile number on the date set forth above. At the time of service the attorney maintained a facsimile device at the attorney's office and the device was working at the time of service.


Andrea M. Barton, OSB #092760